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सं. 36] नई दिल्ली, अगस्त 30—सितम्बर 5, 2015, शनिवार/भाद्र 8—भाद्र 14, 1937
No. 36] NEW DELHI, AUGUST 30—SEPTEMBER 5, 2015, SATURDAY/BHADRA 8—BHADRA 14, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 24 अगस्त, 2015

का.आ. 1726.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उपखंड (1) और खंड 8 के उपखंड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा, बैंक आफ बड़ौदा के कार्यपालक निदेशक श्री के० वेंकट रामा मूर्ति (जन्म तिथि 12.01.1959) को उनके पदभार ग्रहण करने की तारीख से 31.01.2019 अर्थात् अधिवर्षिता की आयु प्राप्त करने की तारीख तक अथवा अगले आदेशों तक, जो भी पहले हो, 65,000—78,000 रुपए के वेतनमान में युनाइटेड बैंक आफ इंडिया के कार्यपालक निदेशक के रूप में नियुक्त करती है।

[फा० सं० 16/46/2015-बीओ-I]

विजय मल्होत्रा, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 24th August, 2015

S.O. 1726.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri K. Venkata Rama Moorthy (DoB: 12.01.1959), Executive Director, Bank of Baroda as Executive Director, United Bank of India in the scale of pay of Rs. 65,000—78,000 with effect from the date of his assumption of the charge of the post and upto 31.01.2019 i.e. the date of his attaining the age of superannuation, or until further orders, whichever is earlier.

[F.No. 16/46/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

शुद्धि-पत्र

नई दिल्ली, 25 अगस्त, 2015

का०आ० 1727.—श्री किशोर पिराजी खरात को आईडीबीआई बैंक लि० के प्रबंध निदेशक एवं मुख्य कार्यपालक अधिकारी के पद पर नियुक्त करने संबंधी इस विभाग की दिनांक 14.08.2015 की अधिसूचना संख्या 4/2/2015-बीओ-I में आंशिक संशोधन करते हुए, निम्नलिखित शब्दों:

“राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उपखंड (1) और खंड 8 के उपखंड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए” के स्थान पर

“आईडीबीआई बैंक लि० के संस्था के अंतर्नियम के अनुच्छेद 116(क)(ii) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए” प्रतिस्थापित किया जाए।

[फा० सं० 4/2/2015-बीओ-I]

विजय मल्होत्रा, अवर सचिव

CORRIGENDUM

New Delhi, the 25th August, 2015

S.O. 1727.—In partial modification of this Department's Notification No. 4/2/2015-BO-I dated 14.8.2015 appointing Shri Kishor Piraji Kharat as MD & CEO of IDBI Bank Ltd., the following words may be substituted:

"In exercise of the powers conferred by Article 116(a)(ii) of the Articles of Association of IDBI Bank Ltd." instead of the following words:

"In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 and sub-clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980".

[F.No. 4/2/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 1 सितम्बर, 2015

का०आ० 1728.—गोवा, दमन एवं दीव (बैंकों का पुनर्गठन) विनियमावली, 1962 के विनियम 4(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा, श्रीमती कनक एस० शेट्टी, भारतीय स्टेट बैंक की पणजी शाखा में मुख्य प्रबंधक को पद के कार्यभार ग्रहण करने की तिथि से अगले आदेशों तक, बानको नैसीओअल अल्ट्रामैरिनो एंड केसा इकोनोमिका डि गोवा (सीईडीजी) के अभिरक्षक के रूप में नियुक्त करती है।

[फा० सं० 66/1/2006-बीओ-II]

तीर्थ राम, अवर सचिव

New Delhi, the 1st September, 2015

S.O. 1728.—In exercise of the powers conferred under regulation 4(1) of Goa, Daman & Diu (Banks Reconstruction)

Regulations, 1962, the Central Government hereby appoints Mrs. Kanaka S. Shetty, Chief Manager, Panji Branch in the State Bank of India, as the Custodian of Banco Nacional Ultramarino and Caixa Economica De Goa w.e.f. the date she assumes the charge of the post and until further orders.

[F.No. 66/1/2006-BO-II]

TIRTH RAM, Under Secy.

युवा कार्यक्रम और खेल मंत्रालय

नई दिल्ली, 26 अगस्त, 2015

का०आ० 1729.—केन्द्रीय सरकार एतद्वारा राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उप नियम (4) के अनुसरण में युवा कार्यक्रम और खेल मंत्रालय के स्वायत्तशासी कार्यालय भारतीय खेल प्राधिकरण प्रशिक्षण केंद्र, बवाना, दिल्ली जिसके 80% से अधिक कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[फा० सं० ई-11011/2/2008-हि०ए०]

एस० एल० मीना, उप सचिव

MINISTRY OF YOUTH AFFAIRS AND SPORTS

New Delhi, the 26th August, 2015

S.O. 1729.—In pursuance of sub rule (4) of Rule 10 of Official Language (Use for Official Purpose of the Union) Rule 1976, the Central Government hereby notifies Sports Authority of India Training Centre, Bawana, Delhi, an Autonomous office of Ministry of Youth Affairs & Sports, whereof more than 80% staff have acquired working knowledge of Hindi.

[F.No. E-11011/2/2008-H.U.]

S. L. MEENA, Dy. Secy.

मानव संसाधन विकास मंत्रालय

(उच्चतर शिक्षा विभाग)

नई दिल्ली, 27 अगस्त, 2015

का०आ० 1730.—लोक परिसर (अनाधिकृत कब्जाधारियों को बेदखल करना) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार एतद्वारा नीचे दी गई तालिका के कॉलम (1) में उल्लिखित अधिकारी, जो भारत सरकार के राजपत्रित अधिकारी की रैंक के बराबर के अधिकारी हैं, को उक्त अधिनियम के प्रयोजनार्थ संपदा अधिकारी के रूप में नियुक्त करती है, जो उक्त तालिका के कॉलम (2) में विनिर्दिष्ट लोक परिसरों के संबंध में अपने अधिकार क्षेत्र की स्थानीय सीमाओं के भीतर उक्त अधिनियम द्वारा अथवा उसके तहत संपदा अधिकारियों को सौंपे गए कार्यों का निष्पादन करेंगे और प्रदत्त शक्तियों का प्रयोग करेंगे:—

तालिका

अधिकारी का पद	लोक परिसर और अधिकार क्षेत्र की स्थानीय सीमाओं की श्रेणियां
(1)	(2)
रजिस्ट्रार, राष्ट्रीय प्रौद्योगिकी संस्थान, जमशेदपुर	राष्ट्रीय प्रौद्योगिकी संस्थान, जमशेदपुर के प्रशासनिक नियंत्रण के तहत और उससे संबंधित सभी परिसर

[सं० एफ० 9-5/2015-टीएस. III]
राजेश सिंह सोलंकी, अवर सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Higher Education)

New Delhi, the 27th August, 2015

S.O. 1730.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (40 of 1971), the Central Government

hereby appoints the officer mentioned in column (1) of the Table below being an officer equivalent to the rank of gazetted officer of the Government of India to be the Estate Officer for the purposes of the said Act who shall exercise the powers conferred and perform the duties imposed on estate officers by or under the said Act, within the local limits of his jurisdiction in respect of the public premises specified in column (2) of the said Table:—

TABLE

Designation of Officer	Categories of public premises and local limits of jurisdiction
(1)	(2)
Registrar, National Institute of Technology, Jamshedpur	All the premises belonging to and under the administrative control of the National Institute of Technology, Jamshedpur

[No. F. 9-5/2015-TS. III]
RAJESH SINGH SOLANKI, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 20 अगस्त, 2015

का०आ० 1731.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 47) की धारा 17 के अनुसरण में केन्द्रीय सरकार जवाहर नवोदय विद्यालय एण्ड अदर्स के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं० 89/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2015 को प्राप्त हुआ था।

[सं० एल-42012/57/2006-आईआर (डीयू)]
पी० के० वेणुगोपाल, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 20th August, 2015

S.O. 1731.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D No. 89/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Jawahar Navodaya Vidyalaya & Others and their workman, which was received by the Central Government on 19/08/2015.

[No. L-42012/57/2006-IR(DU)]
P.K. VENUGOPAL, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर
सी.जी.आई.टी. प्रकरण सं. 89/2006

भरत पाण्डेय,
पीठासीन अधिकारी

रेफरेन्स नं. L-42012/57/2006.IR (DU) दिनांक 08/11/2006

Shri Kamal Babu Jogi S/o Shri Shrawan Lal Jogi,
R/o Shyosinghpura, P.O. Siras, Teh. Niwai
Distt.-Tonk, (Rajasthan) (Dead During Pendency)
1/1 Smt. Barfi Devi (Wife)
1/2 Ravi Kumar (Son)
1/3 Somadev (Son)
1/4 Miss. Maya (Daughter)

V/s

1. The Dy. Commissioner,
Jawahar Navodaya Vidyalaya Samiti,
18, Sangram Colony, Mahavir Marg,
C-Scheme, Jaipur (Rajasthan)
2. The Principal,
Jawahar Navodaya Vidyalaya,
Village & P.O.-Chhan,
Distt.-Tonk (Rajasthan)

प्रार्थी की तरफ से : श्री बी. एम. बागड़ा — एडवोकेट

अप्रार्थी की तरफ से : श्री हवा सिंह — प्रतिनिधि

पंचाट

दिनांक : 30.7.2015

1. केन्द्रीय सरकार द्वारा औद्योगिक विवाद अधिनियम 1947 की धारा 10 उप-धारा 1 खण्ड (घ) के अन्तर्गत दिनांक 08/11/2006 के आदेश से प्रेषित विवाद के आधार पर यह प्रकरण न्यायनिर्णयन हेतु संस्थित है। केन्द्रीय सरकार द्वारा प्रेषित विवाद निम्नवत् है:—

2. "Whether the action of the management of the Principal Navodaya Vidyalaya, Chhan, in terminating the services of their workman Shri Kamal Babu Jogi S/o Shri Shrawan Lal Jogi, Driver, w.e.f. 27.02.2006 is legal and Justified? If not, to what relief the workman is entitled to?"

3. स्टेटमेंट ऑफ क्लेम में दिये गये तथ्य के अनुसार संक्षिप्ततः प्रार्थी का कथन है कि प्रार्थी को विपक्षी विद्यालय में चालक का स्थायी पद रिक्त होने के कारण दिनांक 23.11.1999 को वाहन चालक के पद पर रखा गया था। प्रार्थी को परेशान करने की नियत से वाहन चालक के नियमित पद पर काम कराने के बावजूद प्रार्थी को दैनिक दर से ही मजदूरी दी गयी। प्रार्थी को न्यूनतम मजदूरी भी नहीं दी गयी और मांग करने पर विपक्षी ने दिनांक 16.6.2000 से काम पर लेने से मना कर दिया और सेवा से अलग कर दिया।

4. प्रार्थी द्वारा धारा 2 ए के अन्तर्गत सहायक श्रम आयुक्त को प्रार्थना-पत्र प्रस्तुत किया गया। भारत सरकार ने न्यायनिर्णयन हेतु विवाद प्रेषित किया जो सी.जी.आई.टी. के केस नम्बर 21/2004 दर्ज हुआ और दिनांक 20.1.2005 को अवार्ड प्रार्थी के पक्ष में पारित हुआ जिसमें

सेवा की निरन्तरता मानी गयी और प्रार्थी को सेवा में वापिस नियोजित किया गया। अवार्ड की अनुपालन में प्रार्थी ने नियोजन के यहाँ 15.7.2005 को ड्यूटी ज्वाइन की लेकिन अवार्ड पारित होने की तिथि से 14.7.2005 तक की अवधि का वेतन विपक्षी ने नहीं दिया। विपक्षी ने बदले की भावना से प्रेरित होकर दिनांक 27.2.2006 को प्रार्थी को सेवा से अलग कर दिया।

5. दिनांक 27.2.2006 के आदेश के विरुद्ध प्रार्थी ने औद्योगिक विवाद अधिनियम 1947 की धारा 2-ए के अन्तर्गत सहायक श्रम आयुक्त के समक्ष प्रार्थना पत्र प्रस्तुत किया जहाँ समझौता वार्ता विफल रही जिसके बाद भारत सरकार द्वारा न्यायनिर्णयन हेतु मामला केन्द्रीय श्रम न्यायाधिकरण को सुपुर्द किया गया। प्रार्थी ने यह उल्लेख किया है कि सेवामुक्ति का आदेश दिनांक 27.2.2006 निम्न कारणों से विधि विरुद्ध व प्रभाव शून्य है:—

(क) नियोजक के यहाँ वाहन चालक का पद रिक्त होने के कारण दिनांक 23.11.99 को प्रार्थी को रखा गया था और तब से प्रार्थी निरन्तर काम करता आ रहा था तथा 27.2.2006 के पूर्व प्रत्येक साल में उसने 240 दिन से अधिक समय तक काम किया था। प्रार्थी को सेवा से अलग करने की कार्यवाही अनुचित श्रम व्यवहार है तथा बदले की भावना से प्रेरित है क्योंकि विपक्षी प्रार्थी से नाराज रहता था। विपक्षी संख्या 2 की अनुमति के बिना ही विपक्षी संख्या 1 ने प्रार्थी को सेवा से अलग कर दिया।

(ख) विपक्षीगण के यहाँ कार्य की कमी नहीं थी। प्रार्थी ने वाहन चलाने के अतिरिक्त भी जो कार्य विपक्षीगण ने कराया उसे प्रार्थी ने किया और कभी कार्य करने से मना नहीं किया। विपक्षीगण के यहाँ दैनिक मजदूरी पर काम करने वाले काफी श्रमिक सेवा से अलग किये गये। विपक्षी द्वारा वाहन चालकों की कोई वरीयता सूची नहीं तैयार की गयी जो औद्योगिक विवाद अधिनियम 1947 की धारा 2-जी का उल्लंघन है।

(ग) विपक्षी ने प्रार्थी को सेवामुक्ति करते समय एक माह का नोटिस, नोटिस के बदले वेतन अथवा छंटनी मुआवजा नहीं दिया। विपक्षी ने जो भुगतान किया उसे भी दिनांक 1.9.2005 के बाद किया इस प्रकार विपक्षी ने धारा 25 एफ औद्योगिक विवाद अधिनियम 1947 का उल्लंघन किया।

(घ) प्रार्थी की विपक्षी द्वारा सेवामुक्ति प्राकृतिक न्याय के सिद्धान्त का उल्लंघन है।

6. अतः प्रार्थी ने प्रार्थना की है कि प्रार्थी की सेवामुक्ति का आदेश निरस्त कर प्रभावशून्य घोषित कर प्रार्थी को समस्त वित्तीय लाभ सहित वाहन चालक के पद पर सेवा में निरन्तरता प्रदान करते हुए पुनर्स्थापित किया जाय।

7. विपक्षी ने वादोत्तर प्रस्तुत कर याचिका के प्रस्तर 1, 2, 3 और 8 के कथन को अस्वीकार किया है। प्रस्तर 4 में अवार्ड दिनांकित 20.1.2005 को स्वीकार किया गया है शेष कथन को अस्वीकार किया गया है। प्रस्तर 5 एवं 6 के कथन को दिनांक 27.2.2006 के आदेश के सम्बन्ध में स्वीकार किया गया है, शेष कथन को अस्वीकार किया गया है। प्रस्तर 7 को स्वीकार किया गया है। प्रस्तर 8 के सम्बन्ध में दिनांक

27.2.2006 के आदेश को स्वीकार किया गया है। अतिरिक्त कथन में यह कहा गया है कि कार्य की उपलब्धता के आधार पर दिनांक 23.11.1999 को दैनिक वेतन भोगी के रूप में प्रार्थी को नियोजित किया गया था और नियुक्ति के समय उसकी उम्र 33 वर्ष छः माह थी। वह नियुक्ति के लिए पात्र नहीं था क्योंकि नियमावली के अनुसार वाहन चालक पद के लिए निर्धारित आयु सीमा 18 वर्ष से अधिक और 30 साल से कम है। यह भी उल्लेखनीय है कि पात्रता मात्र से किसी को पद विशेष पर नियोजन का अधिकार प्राप्त नहीं होता क्योंकि नियमित नियुक्ति नियमावली में निर्धारित वैधानिक प्रक्रिया को अपनाने के पश्चात् ही प्रदान की जा सकती है।

8. यह भी कहा गया है कि प्रार्थी स्वयं कार्य से अनुपस्थित हो गया था। विपक्षी संस्थान में चालक का एक ही पद स्वीकृत है और उक्त पद के सम्बन्ध में माननीय उच्च न्यायालय के समक्ष सन् 1996 से रिट याचिका लम्बित थी अतः नियमित नियोजन नहीं किया जा सकता था क्योंकि रिट याचिका का निस्तारण विपक्षीगण के पक्ष में हो चुका था। प्रार्थी को विपक्षी संस्थान में किसी आदेश द्वारा किसी नियमित पद पर नियोजित नहीं किया गया था और न ही उसे दैनिक वेतन भोगी के रूप में नियोजन से हटाया गया था। वह स्वयं कार्य से अनुपस्थित हो गया था और उसने अनुपस्थिति की सूचना भी नहीं दी। प्रार्थी औद्योगिक विवाद अधिनियम 1947 के प्राविधानों का दुरुपयोग कर बिना कार्य किये आर्थिक एवं अन्य लाभ पाने की कुचेष्टा में था जो प्राविधानों का खुला दुरुपयोग है। सी.जी.आई.टी. केस नम्बर 21/2004 के अवार्ड दिनांक 20.1.2005 में विपक्ष द्वारा प्रस्तुत प्रारम्भिक आपत्ति एवं उत्तर (प्रदर्श एम 1 एवं प्रदर्श एम 2) के अवलोकन से यह स्पष्ट है कि प्रार्थी ने औद्योगिक विवाद अधिनियम 1947 के प्राविधानों का दुरुपयोग कर बिना कार्य किये लाभ प्राप्त करने की कुचेष्टा की थी।

9. माननीय न्यायाधिकरण द्वारा पारित अवार्ड दिनांक 20.1.2005 से स्पष्ट है कि पिछले वेतन के सम्बन्ध में कोई आदेश पारित नहीं किया गया था। अवार्ड की प्रतिलिपि एम 3 वादोत्तर के साथ संलग्न है। प्रार्थी ने धारा 33 (सी) 2 के अन्तर्गत प्रार्थना-पत्र सी.एल.सी. 19/2005 विगत वेतन के सम्बन्ध में प्रस्तुत की थी जो 12.5.2006 को न्यायाधिकरण द्वारा निरस्त कर दी गयी। सी.एल.सी. 19/2005 में अवार्ड दिनांक 12.5.2006 की प्रति प्रदर्श एम 4 संलग्न है।

10. वादोत्तर के प्रस्तर 5 में यह कहा गया है कि प्रार्थी का यह कथन गलत है कि दिनांक 27.2.2006 का सेवा समाप्ति का आदेश बदले की भावना से प्रेरित है। आदेश दिनांक 27.2.2006 औद्योगिक विवाद अधिनियम 1947 की आज्ञापक धाराओं का पालन करते हुए किया गया है और प्रार्थी को एक माह की नोटिस के बदले में एक माह का वेतन और चेक संख्या 908416 दिनांकित 27.2.2006 द्वारा 10,039 रुपये की क्षतिपूर्ति की धनराशि का भुगतान किया गया है। इस प्रकार प्रार्थी की सेवामुक्ति का आदेश पूर्णरूप से विधिक एवं औद्योगिक विवाद अधिनियम 1947 में दी गयी प्रक्रिया के अनुरूप है। श्री श्रवण सिंह राजावत नियमित वाहन चालक की नियुक्ति सक्षम अधिकारी द्वारा पहले ही कर दी गयी थी इसलिए प्रार्थी की दैनिक वेतन भोगी के रूप में सेवा की आवश्यकता नहीं रह गयी थी। इस बात का उल्लेख प्रार्थी की सेवामुक्ति का आदेश प्रदर्श 5 में किया गया है कि नियमित चालक उपलब्ध हो गया है।

11. प्रस्तर 7 में विपक्षी का कथन है कि विधिक दृष्टि से याची की मांगपत्र पोषणीय नहीं है तथा निरस्त होने योग्य है। प्रस्तर 9 में यह कहा गया है कि यह विशेष रूप से उल्लेखनीय है कि प्रार्थी की सेवा दैनिक वेतन भोगी के रूप में किसी स्थायी पद के विरुद्ध नहीं ली जा रही थी। जब विद्यालय को आकस्मिक आधार पर चालक की आवश्यकता पड़ती थी जब तत्कालीन देय दैनिक दर पर उसे नियोजित किया जाता था तथा उसका भुगतान “विविध व्यय” मद से किया जाता था। प्रार्थी को इस आधार पर सेवामुक्ति किया गया था कि विद्यालय को सक्षम अधिकारी, नवोदय विद्यालय समिति द्वारा चालक उपलब्ध करा दिया गया था। अप्रार्थी के संस्थान में प्रार्थी द्वारा नियमित नियुक्ति की मांग विधिक विरुद्ध एवं माननीय सर्वोच्च न्यायालय की संविधान पीठ द्वारा कर्नाटक राज्य बनाम उमादेवी (3), 2006, 4 एस.सी.सी.-1, में प्रतिपादित सिद्धान्तों के विरुद्ध है क्योंकि किसी भी नियमित नियुक्ति के लिए आशार्थी को निर्धारित नियमावली एवं प्रक्रिया द्वारा चयन में सफल होने के पश्चात् ही नियोजित किया जा सकता है। अतः प्रार्थी द्वारा प्रस्तुत स्टेटमेंट ऑफ क्लेम सव्यय निरस्त किये जाने योग्य हैं।

12. आगे यह कहा गया है कि प्रार्थी याचित अनुतोष पाने का हकदार नहीं है एवं प्रार्थी की याचिका निरस्त की जाय।

13. प्रारम्भिक आपत्ति में यह कहा गया है कि विपक्ष “उद्योग” की परिभाषा से आच्छादित नहीं है। यह भी कहा गया है कि प्रार्थी को कोई वाद कारण प्राप्त नहीं है तथा प्रार्थी द्वारा उठाया गया विवाद औद्योगिक विवाद अधिनियम 1947 के प्राविधानों की परिधि में नहीं आता है।

14. वादोत्तर के विरुद्ध याची पक्ष की तरफ से प्रस्तुत रिज्वायन्डर में याचिका के कथन की पुनरावृत्ति की गयी है।

15. प्रार्थी पक्ष की तरफ से याचिका के समर्थन में कोई अभिलेखीय साक्ष्य नहीं प्रस्तुत किया गया है। विपक्ष की तरफ से अभिलेखीय साक्ष्य के रूप में प्रदर्श 1 लगायत प्रदर्श 5 अभिलेख प्रस्तुत किये गये हैं जिसमें प्रदर्श 1 केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जयपुर के समक्ष याचिका संख्या 21/2004 में प्रस्तुत प्रारम्भिक आपत्ति एवं प्रदर्श 2 वादोत्तर, प्रदर्श 3 अवार्ड दिनांकित 20.1.2005, प्रदर्श 4 सी. एल.सी 19/2005 श्री कमल बाबू जोगी बनाम जवाहर नवोदय विद्यालय में पारित निर्णय आदेश दिनांक 12.5.2006 एवं प्रदर्श 5 सेवा समाप्ति का आदेश दिनांक 27.2.2006 है।

16. याची पक्ष की तरफ से साक्ष्य में कोई शपथ पत्र प्रस्तुत नहीं किया गया है। दिनांक 25.6.2012 से याची पक्ष को साक्ष्य प्रस्तुत करने का अवसर मिलता रहा है। दिनांक 25.6.2012 को याची पक्ष द्वारा अनुपस्थिति रहने और साक्ष्य प्रस्तुत न करने के कारण तत्कालीन विद्वान पीठासीन न्यायाधीश द्वारा याची पक्ष के विरुद्ध एकपक्षीय कार्यवाही का आदेश पारित किया गया और विपक्षी की साक्ष्य के लिए दिनांक 27.8.2012 तारीख नियत की गयी। दिनांक 27.8.12 को विपक्ष द्वारा कोई साक्ष्य प्रस्तुत नहीं किया गया और याची पक्ष अनुपस्थित रहा। अगली तिथि 8.11.12 को विपक्ष द्वारा अपना साक्ष्य इस आधार पर समाप्त किया गया कि याची पक्ष ने साक्ष्य नहीं प्रस्तुत किया है, अतः विपक्ष को साक्ष्य नहीं प्रस्तुत करना है। इसके बाद पत्रावली एकपक्षीय बहस के लिए 20.12.12 को नियत की गयी। अगली तिथियों दिनांक

20.12.12, 13.3.13 को उभयपक्ष अनुपस्थित रहे हैं और अगली तिथि 15.5.13 को प्रार्थी पक्ष अनुपस्थित रहा है और विपक्ष उपस्थित रहा है एवं पीठासीन अधिकारी अवकाश पर रहे हैं। बहस के लिए अगली तिथि 12.8.13 रिक्त की गयी है। दिनांक 15.5.13 और 12.8.13 के बीच जुलाई 2013 में न्यायालय रिक्त हो गया है। पत्रावली न्यायालय रिक्त होने के समय विपक्ष की तरफ से एकपक्षीय बहस की कार्यवाही में चल रही थी। दिनांक 12.8.2013 के बाद अगली तिथि 23.10.2013 को प्रार्थी पक्ष अनुपस्थित था और पत्रावली एकपक्षीय बहस में थी। विपक्ष ने दिनांक 23.10.2013 को समय की मांग की अतः अगली तिथि एकपक्षीय बहस हेतु 30.12.13 नियत की गयी। इस बीच नये पीठासीन अधिकारी ने दिनांक 10.10.13 को कार्यभार ग्रहण किया।

17. दिनांक 30.12.13 और 4.3.15 के बीच मृतक याची के उत्तराधिकारियों को संशोधन के माध्यम से रिकार्ड पर लिये जाने की कार्यवाही चली। दिनांक 4.3.15 को उभयपक्ष अनुपस्थित थे अतः पत्रावली एकपक्षीय बहस में दिनांक 11.3.15 को नियत की गयी। दिनांक 11.3.15, 17.3.15 और 23.3.15 को उभयपक्ष अनुपस्थित रहे। पक्षकारों की निरन्तर अनुपस्थिति को दृष्टिगत रखते हुए पत्रावली को अवार्ड हेतु आरक्षित किया गया। एवार्ड के लिए पत्रावली के सम्यक् अवलोकन से यह तथ्य प्रकाश में आया कि उभयपक्ष का पत्रावली पर साक्ष्य नहीं है। न्यायहित में प्रार्थी पक्ष को साक्ष्य प्रस्तुत करने का अवसर देना उचित समझ कर एवार्ड पारित करने की कार्यवाही रोककर याची पक्ष के विद्वान प्रतिनिधि को सूचना दी गयी। दिनांक 27.7.15 को याची पक्ष के विद्वान अधिवक्ता प्रतिनिधि उपस्थित आये जिन्हें पत्रावली पर साक्ष्य न होने के सम्बन्ध में अवगत कराया गया। विद्वान अधिवक्ता ने न्यायाधिकरण को अवगत कराया कि बार-बार सूचना देने पर भी याची पक्ष नहीं आता है इसलिये उन्हें ऐसी स्थिति में उन्हें आगे कुछ नहीं करना है। उक्त तथ्य एवं परिस्थिति में साक्ष्य की कार्यवाही समाप्त की गयी और पत्रावली एवार्ड के लिए आरक्षित की गयी।

18. उपरोक्त तथ्य एवं परिस्थिति से यह स्पष्ट है कि याची पक्ष को याचिका में आगे की कार्यवाही में कोई रुचि नहीं है। याची पक्ष द्वारा अपनी याचिका में प्रस्तुत कथन के समर्थन में साक्ष्य में कोई शपथ-पत्र नहीं प्रस्तुत किया गया है और न ही किसी याची साक्षी की विपक्ष द्वारा प्रतिपरीक्षा की गयी है। याची पक्ष द्वारा कोई प्रलेखीय साक्ष्य भी नहीं प्रस्तुत किया गया है। इस प्रकार याची पक्ष याचिका के कथन को सिद्ध करने में असफल है। उक्त आधार पर मैं इस निष्कर्ष पर हूँ कि जवाहर नवोदय विद्यालय, छाँन के प्रचार्य द्वारा श्री कमल बाबू जोगी पुत्र श्री श्रवण लाल जोगी वाहन चालक के विरुद्ध पारित सेवा समाप्ति का आदेश दिनांकित 27.2.2006 विधिक एवं उचित है तथा याची किसी अनुतोष को पाने का हकदार नहीं है। याची की याचिका खारिज होने योग्य है एवं तदनुसार खारिज की जाती है। न्यायनिर्णयन हेतु प्रेषित निर्देश का उत्तर उक्त प्रकार दिया जाता है। पंचाट तदनुसार पारित किया जाता है।

19. पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम 1947 की धारा 17(1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए।

भरत पाण्डेय, पीठासीन अधिकारी

नई दिल्ली, 25 अगस्त, 2015

का.आ. 1732.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल फर्टिलाइजर लिमिटेड, रोपड़ के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ सं० 283/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/08/2015 को प्राप्त हुआ था।

[सं० एल-42011/52/2013-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th August, 2015

S.O. 1732.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 283/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the National Fertilizer Ltd., Ropar and their workmen, which was received by the Central Government on 25/08/2015.

[No. L-42011/52/2013-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer

Case No. I.D. No. 283/2013

Registered on 19.8.2013

1. Nangal Fertilizer Worker Union (Registered) National Fertilizer Ltd., Naya Nangal, District, Ropar, through its President/Secretary.
2. National Fertilizer Employees Union (Regd) National Fertilizer Ltd., Naya Nangal, District, Ropar through its President. Petitioner

Versus

General Manager, National Fertilizer Ltd., Nangal Unit Nangal, District Ropar (Punjab). Respondents

APPEARANCES

For the workman Sh. Ramesh Chopra, Adv.
For the Management Sh. Vinod Sharma (Senior Exec.).

AWARD

Passed on 12/12/2014

Central Government vide Notification No. L-42011/52/2013-IR(DU) Dated 13.8.2013, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the General Manager, National Fertilizer Ltd. Nangal Unit, Nangal, Distt. Ropar in deducting Rs. 5/- per month on account of Union Fund from the salaries of all the employees/workmen without having their authorization/consent/option working under him on the behest of the President Nangal Khad Factory Mazdoor Dal (Regd & Recog) is just and legal? To what relief the concerned workmen are entitled to?"

The workers submitted statement of claim to which written reply was filed by the respondent management. The facts emerging from the documents are that there are five registered trade unions including the present Union who preferred the reference as well 'Nangal Khad Factory Mazdoor Dal' who was elected and recognized as such in August, 2012. The management started deducting Rs. 5/- of the members of Nangal Fertilizer Worker Union and National Fertilizer Employees Union who preferred the present reference as a letter was written by the 'Nangal Khad Factory Mazdoor Dal' for making such deduction. The members of the Nangal Fertilizer Worker Union, National Fertilizer Employees Union had challenged the said deduction on the ground that deduction cannot be made from their salary without their consent and that too merely on account of some letter written by the 'Nangal Khad Factory Mazdoor Dal'. That deductions have been made since 2013 and management be directed to refund the amount and further the deduction if made be declared as unauthorized.

The management filed written reply pleading that it has been deducting the amount as per the letter of recognized Union as per practice and the Union is to spent the amount for the welfare of its members. That the act of the management is legal.

Parties were given opportunity to lead its evidence.

In support of its case Ramesh Kumar and Kulwinder Singh appeared on behalf of the Workers Union and filed their affidavits reiterating the stand as taken in the claim statement.

On the other hand Sh. Vinod Kumar Sharma, appeared on behalf of the management and filed his affidavit reiterating the stand as taken by the management in the written statement.

I have heard Sh. Ramesh Chopra, counsel for the workman and Sh. Vinod Kumar Sharma, Senior Executive, for the management.

It is not disputed that the management has been deducting Rs. 5/- from the salary of the members of Nangal Fertilizer Workers Union' (Regd.), National Fertilizer Employees Union and had started deducting the amount from January, 2013; as letter has been written to it for making the deduction by another Union known as 'Nangal Khad Factory Mazdoor Dal' who came to power in August, 2012. Though it is pleaded that deductions are made as per law but Mr. V.K. Sharma appearing for the respondent

management did not show any provisions of law under which the management can deduct any amount from the salary of its workers and that too at the instance of a third party and without the consent of the workers. Mr. V.K. Sharma has referred to certain letters written by the Union for deducting some amount from the salary of the workers, but the same do not have the effect of any law. The management cannot deduct the amount without the consent of the workers and therefore the deduction of Rs. 5/- from the salaries of the members of the Nangal Fertilizer Workers Union, National Fertilizer Employees Union (Regd.) is unauthorized and the management is liable to refund the amount deducted so far.

In result, it is held that the action of the management deducting Rs. 5/- per month from the salary of the workers of Nangal Fertilizer Workers Union, National Fertilizer Employees Union (Regd.) is unauthorized and the management is liable to refund the same to the workers and the reference is accordingly answered in favour of the workers. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 25 अगस्त, 2015

का.आ. 1733.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल साइल एंड वाटर कोन्सेर्वेटिओन् रिसर्च एंड ट्रेनिंग इंस्टिट्यूट चंडीगढ़ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ सं० 888/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/08/2015 को प्राप्त हुआ था।

[सं० एल-42011/120/99-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th August, 2015

S.O. 1733.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 888/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Central Soil & Water Conservation Research & Training Institute, Chandigarh and their workmen, which was received by the Central Government on 25/08/2015.

[No. L-42011/120/99-IR (DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri Kewal Krishan, Presiding Officer

Case No. I.D. No. 888/2005

Registered on 12.9.2005

Workmen of Central Soil and Water Conservation, Research and Training Institute Research Centre, Sector 26, Madhya Marg, Chandigarh working at its Research Farm, Mansa Devi, Distt. Panchkula through their Research Farm Worker Union, Mansa Devi, Distt. Panchkula.

...Petitioners

Versus

The Officer Incharge Central Soil & Water Conservation Research & Training Institute, Research Centre, Sector 26, Madhya Marg, Chandigarh.

...Respondent

APPEARANCES

For the workman Sh. Ashwani Bakshi Adv.

For the Management Sh. S.K. Gupta Adv.

AWARD

Passed on 14.10.2014

Central Government *vide* Notification No. L-42011/120/99-IR(DU) Dated 3.3.2000, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of Officer Incharge Central Soil & Water Conservation Research & Training Institute, Research Centre, Chandigarh in denying the under mentioned three demands of Research Farm Workers Union, Mansa Devi is justified?

1. Grant of pensionary benefits to Sh. Ram Rattan and Kehar, workman retired from the services of respondent after working at Research Farm, Mansa Devi.
2. Grant of Compensatory leave to the workers S/Sh. Muna Lall, Ujagar, Pal Chand, Muni Lall, Chhote Lall, Sahib Din, Banarsi, Deva, Chandrika, Khoob Lall, Kehar, Amrit Lal, Ram Abilash, Ram Karan, Jagira, Bant, Barkhas, Mrs. Satya Devi, Ran Samujh, Arjun, Ram Rattan, Kartar Singh (deceased), and Dayal Singh for performing extra duties during the period from 12.2.1988 to 21.9.1990.
3. Treating full period of service as casual labour for pensionary benefit.

If not to what relief the workmen are entitled?"

In response to the notice, the workman submitted statement of claim pleading that Sh. Ram Rattan joined the respondent management in 1956 as labourer and remained in continuous service and his services were regularized in 1988. He retired on 31.12.1994.

Sh. Kehar Singh joined the respondent management in 1957 and remained in continuous service till 20.8.1987 when his services were regularized and he retired on 31.12.1995. But both the said persons were not given pensionary

benefits and the services rendered by them as casual labourer is to be taken into account for determining the period of service for the grant of pensionary benefits and they are entitled to get the same.

It was further pleaded that the persons whose names find mentioned in Para 2 of the reference are entitled for compensatory leave or wages. It is further pleaded that all the casual labourers are entitled to pensionary benefits including their service as casual labourers.

Respondent management filed written reply pleading that respondent management is not an industry and further pleaded that Ram Rattan was made regular on 6.1.1988 and retired on 31.12.1994 and thus completed six years ten months and twenty-six days of regular service. Similarly, Kehar Singh joined regular service on 8.9.1987 retired on 31.12.1995 and did regular service of 8 years.

Since both the persons did not complete minimum of ten years of service, they were not entitled to pensionary benefits.

It is further pleaded that compensatory leave etc. has been given to the workmen as per the circulars of the management and no relief can be given to them.

Parties were given opportunities to lead their evidence.

In support of its case Ram Rattan and Kehar Singh appeared in the witness box and filed their respective affidavits reiterating the averments as contained in the claim petition.

On the other hand the management has examined Sh. S.S. Chauhan who filed his affidavit reiterating the stand taken by the management in the written statement.

I have heard Sh. Ashwani Bakshi, counsel for the workman and Sh. S.K. Gupta, counsel for the management and also perused the written submissions submitted by the respective parties.

The main contention of the respondent management is that since Ram Rattan and Kehar Singh did not put in ten years of regular service, they are not entitled to pensionary benefits. Though, Ram Rattan claims himself to be in service as labourer from the year 1956 and Kehar Singh from the year 1957, the management itself placed on record a document regarding the seniority list of daily paid labourers and it is mentioned therein that Ram Rattan was working from 1971 and Kehar Singh was working from 1966. The services of Ram Rattan were regularized on 6.1.1988 and of Sh. Kehar Singh on 8.9.1987. The respondent management did not count the service prior to the regularization of service *i.e.* the service from 1971 to 1988 of Ram Rattan and of Kehar Singh from 1966 to 1987 for the grant of pension. It is now settled law that the service rendered on temporary/*ad hoc* basis is to be taken into account for the grant of pensionary benefits. Therefore the services rendered by the workman Ram Rattan from 1971 and by Sh. Kehar Singh from 1966 is to be taken into account for giving them pensionary benefits and they cannot be denied pension

simply on the ground that they did not complete ten years of regular service. Being so, it is held that Ram Rattan and Sh. Kehar Singh are entitled to pensionary benefits on their retirement as per Rules.

So far as the demand of the workmen that the persons mentioned in para 2 of the reference are entitled for the grant of compensatory leave or wages, for the period 12.2.1988 to 21.9.1990 is concerned, nothing material has come on the record that they were denied the said benefits and on mere assertions, no order can be passed for the grant of compensatory leave or wages. Similarly, the demand for granting pensionary benefits to casual labourer is also not justified as only the regular employees can claim the pensionary benefits and the services rendered as casual labourer continuously has to be taken into account for the purpose of pension and the person working as a casual labourer cannot be granted the pensionary benefits.

In result, the reference is answered holding that Ram Rattan and Kehar Singh are entitled to pensionary benefits whereas, the other two relief claimed by the workmen in the reference are declined and the reference is answered accordingly. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 25 अगस्त, 2015

कांआ 1734.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 15) की धारा 17 के अनुसरण में केन्द्रीय सरकार मिलिट्री इंजीनियरिंग सेवा, जबलपुर के प्रबंधन के संबंधित नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ केस सं. सीजीआईटी/एलसी/आर/116/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/08/2015 को प्राप्त हुआ था।

[सं एल-14012/23/97-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th August, 2015

S.O. 1734.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. Case No. CGIT/LC/R/116/98) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Military Engineering Service, Jabalpur and their workman, which was received by the Central Government on 21/08/2015.

[No. L-14012/23/97-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/116/98

Shri Kanhaiyalal,
S/o Shri Narayan, 47/2,
MES Staff Quarter,
Mall Road, Mhow (MP)

.....Workman

Versus

Chief Engineer,
MES (Military Engineering Service),
Jabalpur

.....Management

AWARD

Passed on this 17th day of July, 2015

1. As per letter dated 11.6.98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-14012/23/97/IR(DU). The dispute under reference relates to:

"Whether the action of the management of MES in giving compulsory retirement to Shri Kanhaiyalal S/o Shri Narayan Electrician *w.e.f.* 20.12.96 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party submitted statement of claim at Pages 2/1 to 2/4. Case of workman is that he was appointed as Electrician by Officer of 2nd party. 2nd party is an Industry. Chargesheet was issued to him on 19.8.95 about unauthorized absence for the period 28.5.87 to 29.1.94. Workman submits that he was absent from duty after leave was sanctioned to him. He had denied charges against him, showcause notice was issued to him by 2nd party. Workman had given reply to the notice. Workman denied charges against him. Enquiry Officer submitted his report on 4.7.96. Ist party workman had submitted his objection on 8.7.96. The order of punishment was passed against him on 28.12.96 imposing punishment of compulsory retirement. Workman submits that enquiry conducted against him is illegal. He had not committed any misconduct. The documents requested by workman were not supplied to him. Consequently workman could not defend himself properly. The evidence in Enquiry Proceedings cannot prove charges against him. Workman had suffered injury, his pay was deducted. In legal proceeding initiated by workman, he was awarded compensation. The compensation amount was recovered from 2nd party. Management was annoyed by the legal actions taken by workman. Chargesheet was issued falsely. Workman was not served notice alongwith report of the Enquiry Officer. His services are illegally terminated in violation of principles of natural justice. Workman prays that order of his compulsory retirement be declared illegal and reinstatement with backwages be allowed to him.

3. 2nd party filed Written Statement at pages 7/1 to 7/2 opposing claim of the workman. 2nd party submits that it is not industry under ID Act. 2nd party is a department in control of Ministry of Defence. It is not engaged in earning

profit. It does not carry industrial activities contemplated under Section 2(j) of ID Act. Workman is not covered under Section 2(s) of ID Act as he is drawing Rs. 3085 in pay scale Rs. 950-1500. The workman was served with chargesheet for unauthorized absence under Rules 14 of CCS CCA Rules 1965. Enquiry was conducted against workman following procedure. Workman was given full opportunity for his defence. On evidence in Enquiry Proceedings, the report was submitted by Enquiry Officer. That charges against workman were proved. Management of 2nd party accepted findings of Enquiry Officer. After receiving showcause notice, the reply submitted by workman was also considered. Leniency was shown and punishment of compulsory retirement was imposed. If enquiry conducted against workman is found vitiated. 2nd party prayed permission to prove misconduct by adducing evidence.

4. Workman filed rejoinder at Pages 8/1 to 8/4 reiterating his contentions in statement of claim.

5. Management also filed reply to the rejoinder at Pages 11/1 to 11/6 reiterating his contentions in Written Statement.

6. As per order dated 20.3.14, enquiry conducted against workman is found illegal/vitiated. 2nd party was permitted to prove misconduct.

7. Considering pleadings on record and findings on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---------------------|
| (i) Whether the 2nd party management proved charges alleged against workman? | In Negative |
| (ii) Whether the punishment of compulsory retirement imposed against workman is proper and legal? | In Negative |
| (iii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

8. Point No. 10—Enquiry conducted against workman is found illegal. Management was given permission to prove misconduct by adducing evidence. Workman had died during pendency of reference proceedings. His LRs are brought on record. In order to prove charges alleged against workman, affidavit of evidence of Shri S.C. Awasthi is filed. Management's witness says that workman was absent from duty from 20.5.87 to 29.12.94 without informing authorities. Workman failed to report on duty. Chargesheet was issued to workman enquiry was conducted following the rules. Workman was provided inspection of documents. Full opportunity was given to him. Evidence of management's witness is nothing but narrating about enquiry conducted

against workman. His affidavit of evidence is not disclosing how he was concerned with the absence of workman from duties. In his cross-examination, management's witness says he was posted at Agra, he was not concerned with enquiry conducted against workman. Affidavit is filed on basis of record available. Document of DE proceedings are not produced. After enquiry conducted against workman is found illegal, management has not adduced any evidence to prove misconduct alleged against workman. Therefore I record my finding in Point No. 1 in Negative.

9. Point No. 2—for alleged misconduct of unauthorised and habitual absence, punishment of compulsory retirement imposed against workman, enquiry against workman is found illegal, 2nd party was given opportunity to prove charges against workman. When charges alleged against workman are not proved, punishment of compulsory retirement against workman cannot be suspended. It deserves to be set-aside therefore I record my finding in Point No. 2 in Negative.

10. In the result, award is passed as under:—

- (1) The action of the management of MES in giving compulsory retirement to Shri Kanhaiyalal S/o Shri Narayan Electrician w.e.f. 20.12.96 is not proper and legal.
- (2) Order of compulsory retirement of deceased workman is set-aside. 2nd party is directed to pay backwages from date of order of compulsory retirement till the date of superannuation of workman or his death which ever is earlier and thereafter retiral benefit to deceased workman/his family members be given.
- (3) Parties to bear their respective costs.

R. B. PATLE, Presiding Officer

नई दिल्ली, 25 अगस्त, 2015

का०आ० 1735.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार कारखाना, भारत संचार निगम लिमिटेड, जबलपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ केस नं० सीजीआईटी/एलसी/आर/48/07) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/08/2015 को प्राप्त हुआ था।

[सं० एल-40011/4/2007-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th August, 2015

S.O. 1735.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. Case No. CGIT/LC/R/48/07) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of the Telecom Factory, BSNL, Jabalpur and their workmen, which was received by the Central Government on 21/08/2015.

[No. L-40011/4/2007-IR (DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/48/07

Shri Jogendra Singh,
C/o Shri M.R. Ghai, Advocate,
18, South Civil Lines, Jabalpur

Circle Secretary,
BSNL Employees Union,
House No. 2491, Ekta Parisar,
Ratan Nagar Road,
Madanmahal, Jabalpur

Workman

Versus

Chief General Manager,
Telecom Factory,
Wright Town,
Jabalpur

Management

AWARD

Passed on this 20th day of July, 2015

1. As per letter dated 21.5.07 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40011/4/2007-IR(DU). The dispute under reference relates to:

"Whether the demand of BSNL Employees Union for correction/modification of date of birth of Shri Jogendra Singh, T. No. 2620 from 20.12.1951 to 19.7.1954 is legal and justified? If yes, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Pages 3/1 to 3/3. Case of workman is that he was appointed as labour on 3.4.73 through Employment Exchange. At the time of joining, he had declared his educational qualification as furnished in School Certificate of standard 8th. Subsequent to joining, he was medically examined on 28.12.73. The Medical Officer certified workman fit for service. With regard to his age, Medical Officer recorded that as per statement of workman, his age was 19 years and by appearance 22 years. Workman was posted in Store Section, Wright town, Telecom Factory, Jabalpur. He was working under control of chageman for 3 years. Thereafter he was shifted to other department. Thereafter he worked for 15 years. After sometime, he was transferred to

Microwave tower Section/Factory at Jabalpur as Fitter Mart.

3. That he was receiving his salary signing in cash register. Said register was not mentioning his leaves or date of retirement. From salary slip of August 05, it came to my notice that his date of birth was recorded 20.12.1951. He submitted representations for correction of his date of birth as 19.5.54. He had furnished education certificate in support of his representation. He was informed on 20.10.05 that his date of birth would not be corrected. His subsequent representation dated 2.11.05 was not considered. Workman submits at the time of joining, his date of birth was not recorded in service book. In all the form submitted by workman, he claimed his date of birth was 19.7.54. On basis of Medical Examination, management entered his date of birth 28.12.51. His repeated request for correcting date of birth was not considered. He had submitted School Certificate issued on 20.5.72 prior to joining service by him. There was no reason to disbelieve said document without assigning any reasons, his request for correction for date of birth was rejected. Workman prays for correction of his date of birth.

4. 2nd party filed Written Statement at Pages 7/1 to 7/4 opposing claim of the workman 2nd party submits that workman joined as labour on 3.4.73. His name was entered in service book. Workman was given Ticket No. 2620, qualification of workman was 8th standard pass but he had not produced marksheet. As date of birth could not be ascertained, he was medically examined on 20.12.73 by Factory Medical Officer. As per Medical Report, age of workman was recorded 19 years, by appearance 22 years. His date of birth was ascertained as 20.12.1951. It was recorded in service book. Service book was signed by workman himself. His finger prints were also put on service record. 2nd party reiterates that the Attestation Form submitted by workman shows his qualification B-Com. Ist year on 28.8.73. Workman submitted his date of birth was 16.3.55 for purpose of family pension. Workman himself was mentioning different date of birth. Workman submitted representation on 1.9.05 at fag end of his service. The representation was examined by the department. Workman was informed about rejection of his representation on 20.10.05 as per GI Deptt. OM No. 19017/2/92-Estt. He claimed for attestation of date of birth to be made by employees within 5 years of entry in service. It is reiterated that workman had not submitted certificate of 8th standard. He was claiming his age was 19 years. It was contrary to School Certificate of 8th standard and declaration made by workman. The claim of workman is false. Workman is not entitled to correction of his date of birth.

5. Considering pleading on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- "(i) Whether the demand of BSNL Employees Union for correction/modification of date of birth of Shri Jogendra Singh, T. No. 2620 from 20.12.1951 to 19.7.1954 is legal and justified? In Negative
- (ii) If not, what relief the workman is entitled to?" Workman is not entitled to any relief.

REASONS

6. Workman is claiming correction of his date of birth as 19.7.54 instead of 28.12.51. Claim of workman is opposed by 2nd party management. Workman filed affidavit of his evidence supporting his claim that as per School record, his date of birth is 19.7.54. He joined service on 28.12.73. His date of birth was wrongly recorded 20.12.51 came to his notice from pay slip for the month of August 05. His correct date of birth is 19.7.54. In his cross-examination, workman says he was appointed on 3.4.73. Exhibit M-3 was not filed by him, it was filled by the clerk. He claimed to know about his correct date of birth in the year 2005. He had complained about it in writing. He has produced certificate of passing 8th standard. The documents produced by management Exhibit M-1 shows that the date of birth of workman is recorded 20.12.51. Medical report refers workman was claiming his age was 19 years and by appearance of 22 years. In Exhibit M-2, the date of birth of workman is shown 16.3.55. Exhibit M-1, M-2 are admitted by workman. Exhibit M-3 is workman was informed that his representation of correction of date of birth could not be considered. Exhibit M-4 is copy of rules relating to the alteration in date of birth. Said rule provides the employee makes request in this regard within 5 years of entering Government service. Exhibit M-1 was referred to management's witness in his cross-examination and admitted in evidence. The date of birth of workman is 13.3.1951, present age 23 years age, at Matriculation 18 years. The qualification of workman is shown B. Com Ist year in 1972 from G.S. College Jabalpur. The year of entry in College is shown 1971.

7. Workman examined witness Shri Deepak Kumar Soni. From his evidence, document Exhibit M-1 is proved. In said document, date of birth of workman is recorded 19.7.54. Copy of marksheet is produced by workman but workman did not adduce evidence to prove said document. Copy of marksheet produced by workman finds the date of birth of workman was 19.7.54.

8. Management filed affidavit of evidence of witness Shri Raju Sapre supporting contentions of 2nd party that his date of birth was recorded 28.12.1951 as per the Medical Report. That any document submitted by workman for family pension, date of birth is recorded 16.3.55. That as per OM No. 19017 dated 19.5.93, the

date of birth can be altered on request within 5 years by the employee. Management's witness in his cross-examination says Exhibit M-1 produced by 2nd party is with respect to Yogendra Singh. The Attestation Form was submitted by workman. Exhibit M-5 was referred to the witness by counsel for 1st party and therefore admitted in evidence.

9. The documents produced on record shows workman claimed different date of his birth while submitting documents for pension, the workman joined service in 1973. Till year 2005, he had no grievance about his date of birth.

10. Learned Counsel for 2nd party Shri Gautam Prasad relies on ratio held in—

Case of Secretary and Commissioner, Home Department and Others *versus* R. Kirubakaran reported in AIR 1993-SC-2647. Their Lordship dealing with correction to date of birth held the Court or Tribunal should be slow in granting it, unless *prima facie* evidence of unimpeachable character is produced.

Reliance is also placed in ratio held in case of Union of India *versus* Harnam Singh reported in AIR 1993-SC-1367(1). Their Lordship dealing with correction of date of birth held limitation of 5 years for seeking it introduced by amendment in 1979. Entry as to date of birth recorded at time of entry into service continuing to exist for 3½ decades without challenge. Servant having numerous opportunities to see entry correction sought 5 years after amendment of Note 5 was not justified.

In present case, workman was appointed in 1973. After about 32 years, workman has requested correction of date of birth at fag end of service cannot be accepted. Therefore, I record my finding in Point No. 1 in Negative.

11. In the result, award is passed as under:—

- (1) The demand of BSNL Employees Union for correction/modification of date of birth of Shri Jogendra Singh, T. No. 2620 from 20.12.1951 to 19.7.1954 is not proper and legal.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 25 अगस्त, 2015

का.आ. 1736.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गन कैरिज फैक्ट्री, जबलपुर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ केस सं. सीजीआईटी/एलसी/आर/ 151/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/08/2015 को प्राप्त हुआ था।

[सं. एल-14011/22/2001-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th August, 2015

S.O. 1736.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. CGIT/LC/R/151/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Gun Carriage Factory, Jabalpur and their workmen, which was received by the Central Government on 21/08/2015.

[No. L-14011/22/2001-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/151/2001

Shri Shivram, S/o Shri Cheddilal,
House No. 22, Hetalganj,
Sadarbazar, Jabalpur

.....Workman

Versus

General Manager,
Gun Carriage Factory,
Jabalpur

...Management

AWARD

Passed on this 24th day of July, 2015

1. As per letter dated 28-9-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-14011/22/2001-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Gun Carriage Factory, Jabalpur in awarding penalty of dismissal from service on Shri Shivram, sweeper and subsequently reducing the penalty to compulsory retirement by the Appellate Authority is justified and legal? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party submitted statement of claim at Page 4/1 to 4/3. Case of Ist party workman is that he was employed as sweeper in 2nd party GCF, Jabalpur. On charge of unauthorised absence of 913 days in broken period, workman was removed from service. That he had submitted sick intimation to the Controlling Authority entire period of his illness on 14-2-97. That he was constantly sick during leave period. He was suffering from disease of limbago. His both hip joints were defective. On most of the occasions, he was bed ridden and receiving treatment in factory hospital. The punishment of removal

from service was challenged filing appeal. The Appellate Authority revised the order of dismissal of compulsory retirement as per order dated 20-10-99. The Appellate Authority was fully convinced of his sickness and his inability to attend duties. Workman still feeling aggrieved raised dispute and prays for setting aside order of his compulsory retirement and consequently reinstated with backwages.

3. 2nd party filed Written Statement at Pages 6/1 to 6/4 opposing claim of the workman. 2nd party submits that he is Appellate Authority modified order of removal from service to compulsory retirement. That chargesheet was issued to workman for unauthorized absence of 219 days in 1994, 360 days in 1995, 340 days in 1996. Workman did not submit reply to the chargesheet. Enquiry Officer was appointed. After receiving report of Enquiry Officer, its copy was served on workman. He had submitted his reply considering gravity of the proved unauthorized absence, punishment of removal was imposed against workman. It is reiterated that workman was unauthorisely absent and not submitted any intimation about his absence. It is submitted that workman was absent for 859 days during 1994 to 1996. The moderate punishment imposed on workman by Appellate Authority doesnot absorb him for his misconduct of absence of 983 days from duty. 2nd party submits that action of the management is proper and legal.

4. Legality of enquiry is not disputed by workman.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of Gun Carriage factory, Jabalpur in awarding penalty of dismissal from service on Shri Shivram, sweeper and subsequently reducing the penalty to compulsory retirement by the Appellate Authority is justified and legal?

In Affirmative

(ii) If not, what relief the workman is entitled to?"

Workamn is not entitled to any relief.

REASONS

6. Workman died during pendency of reference. His LRs were brought on record. LRs failed to participate in the proceeding, they were proceeded exparte on 10-12-12. Management filed affidavit of its witness Shri Chumdemo Ngullie. His evidence is devoted on the point that Enquiry Officer Shri D.P. Sengupta was appointed and Shri R.N. Bannerjee was appointed as Presenting Officer. Enquiry was conducted issuing the notice. Record of enquiry is produced at Exhibit M-2. Considering findings of Enquiry Officer, unauthorized absence of workman was removed from service, the punishment was modified to compulsory retirement in appeal. Considering long absence during the year 1994-95, 95-96 workman did not attend to his duties.

Punishment of compulsory retirement imposed against workman cannot be said excessive, disproportionate. The absence of workman is not disputed, no evidence was adduced by workman about application for leave submitted by him. Therefore I record my finding in Point No. 1 in Affirmative.

7. In the result, award is passed as under:—

(1) The action of the management of Gun Carriage Factory, Jabalpur in awarding penalty of dismissal from service on Shri Shivram, sweeper and subsequently reducing the penalty to compulsory retirement by the Appellate Authority is proper and legal.

(2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 26 अगस्त, 2015

का.आ. 1737.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार शर्मा इंटरप्राइजेज एंड ओटर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 1, चंडीगढ़ के पंचाट (संदर्भ सं. 141/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/08/2015 को प्राप्त हुआ था।

[सं. एल-42012/25/2015-आई आर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 26th August, 2015

S.O. 1737.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 141/2014) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Chandigarh now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Sharma Enterprises & others and their workmen, which was received by the Central Government on 26/08/2015.

[No. L-42012/25/2015-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

Before Shri Surendra Prakash Singh, Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court-I, Chandigarh.

Case No. ID 141 of 2014. Reference No. L-42012/25/2015-IR(D-U) dated 10.03.2015.

Sh. Satish Kumar son of Shri Karam Chand, House No. 2217, Sector 37 C, Chandigarh-160036.Workman

Versus

1. M/s. Sharma Enterprises, Govt. Contract & Engineer, 617/A, Gate No. 6, Gurbaksh Colony, Patiala (Punjab)-147001.

2. The Junior Engineer, O/o Assistant Engineer, CPWD, Chandigarh Central Sub-Division 2, Qtr. No. 1409/A, Audit Pool Colony, Sec. 41-B, Chandigarh-160036.
3. The Superintendent Engineer, CPWD, Chandigarh Central Circle, Kendriya Sadan, Sec.-9-A, Chandigarh-160009.
4. The Executive Engineer, CPWD, Chandigarh Central Division I, Sector 7-B, Chandigarh-160019
5. The Assistant Engineer, CPWD, Chandigarh Central Sub-Division 2, Qtr. No. 1409/A, Audit Pool, Colony, Sec. 41-B, Chandigarh-160036.Respondents

APPEARANCE:

For the Workman : None.

For the Management : Shri G.C. Babbar Advocate

AWARD

Passed on 19.08.2015

Government of India Ministry of Labour *vide* notification L-42012/25/2015-IR (DU) dated 10.03.2015 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Management of CPWD for not regularising the services of Sh. Satish Kumar, plumber even consequent upon abolition of contract labour system in the department of CPWD as per Govt. of India, Ministry of Labour's Notification dated 31.1.2002 is just legal? If not, to what relief the concerned workman is entitled to and from which date?"

2. On receipt of the reference notice were issued to the parties. The case was fixed for filing of claim statement. Case repeatedly called. None appeared for the workman despite several opportunities. No. claim statement has been filed by the workman. It appears that workman is not interested to pursue his reference. In view of the above, the present reference is returned to the Central Govt. for want of prosecution. Central Govt. be informed. Soft as well hard copy be sent to the Central Govt. for publication. Chandigarh.

19.08.2015

S.P. SINGH, Presiding Officer

नई दिल्ली, 26 अगस्त, 2015

का०आ० 1738.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार हेड पोस्ट ऑफिस, सोनीपत के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चण्डीगढ़ के पंचाट (संदर्भ सं. 29/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/08/2015 को प्राप्त हुआ था

[सं. एल-40012/89/2012-आईआर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 26th August, 2015

S.O. 1738.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 29/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Head Post Office, Sonapat and their workmen, which was received by the Central Government on 26/08/2015.

[No. L-40012/89/2012-IR (DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHANDIGARH**

Case No. ID 29/2012. Reference No. L-40012/89/2012-IR(DU) dated 03.12.2012.

Shri Jagmender Singh son of Shri Chander Singh resident of Village Kheri Damkal, Tehsil Gohana, District Sonapat.

...Workman

Versus

1. The Head Post Master, Head Post Office (Sonapat), Near Door Sanchar Vibhag, Sarang Cinema Road, Sonapat-Haryana ...Respondent

APPEARANCE

For the Workman : Shri Karan Singh

For the Management : Shri R. P. Singh, Advocate

AWARD

Passed on 20.08.2015

Government of India Ministry of Labour *vide* notification. No. L-40012/89/2012-IR(DU) dated 03.12.2012 has referred the following dispute to this Tribunal for adjudication:

"Whether the demand of Shri Jagmender Singh son of Shri Chander Singh for reinstatement and regularization in service with full back wages with the management of Supdt. of Post Offices, Sonapat *w.e.f.* 22.7.2011 as chowkidar is just, fair and legal? If not, what relief the workman is entitled to?"

2. The workman filed claim statement in which it has been pleaded that he was appointed as chowkidar after the death of Mahabir chowkidar at Head Post Office Jind Road Gohana and he worked from 8.12.2008 to 21.7.2011 services were terminated by the management on 27.7.2011 without

assigning any reason or reasonable cause. It is further pleaded that the workman was drawing salary of Rs. 3411 per month and has completed more than 240 days in a calendar year and the termination of the workman is unlawful, arbitrary and against the principle of natural justice and in violation of Section 25F of the I.D. Act, 1947 as no notice was given, no enquiry was held and the management also appointed junior namely Sukhbir in his place. It is also pleaded that the management has not adopted the mandatory procedure of last come first go. It is prayed by the workman that he may be directed to be reinstated in service with full back wages along with continuity of service and other resultant benefits.

3. The management filed reply in which it is submitted that there is no sanctioned post of chowkidar in the establishment of Gohana MDG, therefore, no vacancy of part time chowkidar was notified nor employment officer was requested to sponsor candidates for this post. The workman was never appointed as part time chowkidar but engaged as contingent paid part time chowkidar on 8.12.2008 by SPM Gohana. No appointment order was issued to the workman against the post of part time chowkidar. The wages were also not drawn by name but a contingent voucher is prepared and was paid to incumbent who was engaged for the work. The attendance was also not marked by Sub Post Master Gohana and the services of the workman were disengaged as per policy and guidelines of the department. No other person was engaged as part time contingent paid chowkidar after disengagement of the arrangement made by SPM Gohana. It is further pleaded that as the workman was never appointed as part time chowkidar, therefore, the provisions of Section 25 of the I.D. Act does not attract. There is no such of part time chowkidar, therefore, no seniority list was required to be displayed. The management also not violated the provisions of Section 25H, N and G of the I.D. Act, 1947. It is prayed that the demand of the workman for reinstatement and regularization in service with full back wages is not just, fair and legal and the workman is not entitled to any relief.

4. In evidence, workman filed his own affidavit as W1 along with documents. Exhibited as Ex. W2 to W8 which were issued by the post office. The management in evidence filed the affidavit Ex. M1 of Shri D.V. Saini who also relied on documents Ex. M2 to M5. The witnesses of both the parties were cross-examined by the rival representatives of the parties. The workman stated in cross-examination that he was engaged as chowkidar on 8.12.2008 and his salary was Rs. 3411 per month. The workman stated that he was paid through ACG vouchers. The workman stated that Ex. W2 is the appointment letter cum charge report. In cross-examination witness of the management MW! D.V. Saini admitted the documents of the workman Ex. W2 to W8 correct as issued by the post office. He also stated that Ex. W8 bears the name of the workman in subject of the document. He further stated that the document shows that

the payment from 1.6.2010 to 21.7.2011 was payable to part time chowkidar and his office authorized the sub post master Gohana for payment to part time chowkidar and for payment of Rs. 3411. This witness of the management further stated that he does not remember whether any retrenchment compensation was paid to the workman at the time of his termination and there was no seniority of part time chowkidar.

5. I have heard the parties, gone through the evidence and record.

6. The learned counsel for the workman submitted that the workman admittedly worked from 8.12.2008 to 21.7.2011 when his services were terminated without any justifiable reason. The management has violated the mandatory provisions of Section 25F of the I.D. Act 1947 as no retrenchment compensation or notice of one month or pay in lieu of notice was given to the workman although the workman has completed more than 240 days of service during every calendar year from 8.12.2008 to 21.7.2011. No enquiry was conducted. Junior were retained in service. It is prayed that the workman may be reinstated in service with full back wages and other attendant benefits. The learned representative of the workman also relied on 2008 LLR 1214 Div. Manager, New India Assurance Co. Ltd. Vs. A. Sankaralingam.

7. On the other hand learned counsel for the management submitted in arguments that no appointment letter was issued to the workman. The workman was paid through contingent as part time chowkidar. The workman was never paid any salary of Rs. 3411 and this amount was drawn through ACG vouchers and paid to the workman. The workman was disengaged as per policy and guidelines of the department. It is further submitted in the arguments that the department of post office is not an industry under the Industrial Disputes Act 1947 and as such the workman/ applicant cannot invoke the jurisdiction of this Tribunal as the appropriate/competent court for the redressal of the grievances of the employees of department of posts is Central Administrative Tribunal constituted by the Central Govt.

8. The documents Ex. W2 to W8 which have been admitted by the witness of the management as correct and issued from the department reveals that the workman worked with the department from 8.12.2008 to 21.7.2011 and he was paid Rs. 3411 at the time for disengagement by the management and no retrenchment compensation, notice of one month or notice pay was paid to the workman at the time of his disengagement. The workman completed more than 240 days of service in preceeding years to the date of termination. The management has taken the plea in the affidavit that the department of post is not an industry within the meaning of Section 2(j) of the I.D. Act and the department of post office comes under the purview of the Central Administrative Tribunal.

9. The workman opposed this submission of the management and cited Section 2(j) of the I.D. Act 1947 which reads as under:

"2(j) "Industry" means any business, trade, undertaking, manufacture or calling of employer and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen;"

10. As per the Industrial Disputes (Amendment) Act 1982, the definition has been amended which reads as follow:—

"(j)" industry" means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,—

- (i) any capital has been invested for the purpose of carrying on such activity; or
- (ii) such activity is carried on with a motive to make any gain or profit, and includes—
 - (a).....
 - (b) any activity relating to the promotion of sales or business or both carried on by an establishment."

11. The department of post being providing public utility services falls within the ambit of industry and this Tribunal has the jurisdiction to adjudicate upon the present dispute.

12. Management's representative submitted that the workman being part time workman is not entitled for the privileges as enjoyed by the regular employees. The learned representative of the workman opposed the submission of the management and referred 2008 LLR 1214 Div. Manager, New India Assurance Co. Ltd. Vs. A. Sankaralingam, wherein Hon'ble Supreme Court held that part time employees also entitled to the protection of Section 25F and G and H of the I.D. Act 1947.

13. From the evidence of the parties, it is evident rather admitted fact that workman worked with the management from 8.12.2008 to 21.7.2011. It is also established from the documents and oral evidence of the parties that workman completed more than 240 days in the proceeding year from the date of his termination and admittedly no notice, notice pay and retrenchment compensation has been paid to the workman. It is also admitted fact that no enquiry was conducted against the workman.

14. In view of the above, as the management fails to comply with the provisions of Section 25F of the I.D. Act, 1947. The workman is entitled to be reinstated in service with 40% of the back wages within one month from the publication of the award. The question of regularization and seniority is left open for the management to decide.

15. The reference is answered accordingly. Central Govt. be informed. Soft as well hard copy be sent to the Central Govt. for publication.

Chandigarh.
20.08.2015

S.P. SINGH, Presiding Officer.

नई दिल्ली, 27 अगस्त, 2015

का०आ० 1739.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचाट (संदर्भ संख्या 67/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/08/2015 को प्राप्त हुआ था।

[सं० एल-12012/106/1999-आईआर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 27th August, 2015

S.O. 1739.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/1999) of the Cent.Govt.Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the Industrial Dispute between the State Bank of India and their workmen, received by the Central Government on 27/08/2015.

[No. L-12012/106/1999-IR (B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Sri Pramod Kumar Mishra,
Presiding Officer

Reference No. 67 of 1999

Parties : The management of State Bank of India,
Burdwan

Vs.

Sri Pradeep Mandal

Representatives:

For the management : Sri A. Chakraborty, Ld. Adv.
For the union (Workman) : Sri P.K. Das, Ld. Adv.
INDUSTRY: BANK STATE: WEST BENGAL
Dated: 04.08.15

AWARD

In exercise of powers conferred by clause (d) of sub-section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour *vide* its letter No. L-12012/106/1999-IR(B-I) dated 10.06.1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of State Bank of India, Zonal Office, Region IV Burdwan in termination the service of Shri Pradeep Mondal, Messenger on 31.03.1998 is legal and justified, if not, what relief the workman is entitled to?"

Having received the Order No. L-12012/106/1999-IR (B-I) dated 10.06.1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 67 of 1999 was registered on 05.07.1999 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out Sri A. Chakraborty, Learned Advocate for the management (State Bank of India, Zonal Office, Burdwan) and Sri P.K. Das, Learned Advocate for the workman (Sri Pradeep Mondal) are present.

Mr. P.K. Das submits that he does not want to contest this case any more as he has failed to contact with the workman. It is found from the record that on 07.08.2013 the workman was partly cross-examined and the case was fixed for further cross-examination. But the workman never appeared after 07.08.2013. It seems that the workman has now no interest left to proceed with the case further. The reference is also very old-of the year 1999. As such the case is closed and a "No Dispute Award" may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 27 अगस्त, 2015

का०आ० 1740.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिरेयास ग्रामीण बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 110/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/08/2015 को प्राप्त हुआ था।

[सं. एल-12012/14/2013-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 27th August, 2015

S.O. 1740.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 110/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of Shreyas Gramin Bank and their workmen, received by the Central Government on 27/08/2015.

[No. L-12012/14/2013-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE SRI SHUBHENDRA KUMAR, HJS,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL-CUM-LABOUR COURT, KANPUR**

Industrial Dispute No. 110/2013

Between:

Shri Dheeraj Kumar son of Sita Ram,
C/o R. P. Singh,
Satate Executive Committee Member,
UP Bank Organization,
3/13, Mathura Nagar,
Aligarh-202001.

And

The Manager,
Shreyas Gramin Bank,
Main Branch,
Etah. U.P.

AWARD

1. Central Government, MoI, *vide* notification No. L-12012/14/2013-IR(B-1) dated 28.05.2013, has referred the following dispute the adjudication to this tribunal.

2. Whether the action of management of Shreyas Gramin Bank in terminating the services of Shri Dheeraj Kumar son of Shri Sita Ram workman with effect from 01.08.2012 is just fair and legal? If not, to what relief the workman concerned is entitled to?

3. In the instant case after receipt of reference order notices were issued to the contesting parties for filing of their respective claim. On 01.10.2013, representative for the bank appeared in the case and filed authority letter. It is pertinent to mention here that from the order sheet of the

case it reveals that the case is pending from 04.10.2013, but till 05.05.15 no claim statement was filed on behalf of the workman. On 27.05.2015 when the case was taken up for hearing in the presence of both the parties, the representative for the workman made an endorsement on the order sheet that as the worker is not available, proceedings of the case is not possible. He also made an endorsement that he will not file any claim statement in the case.

4. Therefore, in view of the above discussion, the tribunal is left with no other option but to decide the reference against the worker for want of pleadings and proof.

5. Accordingly the reference is answered in the above terms.

SHUBHENDRA KUMAR, Presiding Officer.

नई दिल्ली, 27 अगस्त, 2015

का०आ० 1741.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 57/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/08/2015 प्राप्त हुआ था।

[सं. एल-12012/110/2012-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 27th August, 2015

S.O. 1741.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 57/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 27/08/2015.

[No. L-12012/110/2012-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, KANPUR**

Industrial Dispute No. 57/2013

Between:

Shri Anuj Kumar son of Shri Shyam Behari,
C/o Shri O.P. Mathur,
117/K/36, Sarvodaya Nagar,
Kanpur.

And

General Manager,
State Bank of India,
Motimahal Hazratganj,
Lucknow.

New Delhi, the 27th August, 2015

AWARD

1. Central Government, MoI, New Delhi *vide* notification No. L-12012/110/2012-IR(B-I) dated 13.05.2013, has referred the following dispute to the adjudication to this tribunal.

2. Whether the action of management of State Bank of India in terminating the services of Shri Anuj Kumar son of Shri Shyam Behari, workman with effect from 16.12.84, and not considering his name for reemployment while re-employing other including the other recruitment of fresh hand is just fair and legal? If not to what relief the workman concerned is entitled to?

3. It is pertinent to mention here that after the receipt of the reference order from the Ministry both sides have attended the proceedings of the case before the Tribunal and in furtherance of the same Shri Neeraj Sharma, has filed his authority on behalf of the management to represent the case of the bank.

4. In this case the first date was fixed for filing of the claim statement by the workman on 18.09.13 but from that date till 28.09.2015, after availing of several opportunity he has not filed his claim statement, therefore, it may be presumed that he is not interested in contesting the case.

5. However, when the case was taken up for hearing representative for the bank was present but none appeared on behalf of the workman nor any statement of claim was filed in the case.

6. Therefore, the tribunal is bound to hold that the workman is not interested in pursuing the present claim before the tribunal and as a result of the same the tribunal is left with no other option but to hold that the workman is not entitled for any relief in the case for want of pleadings and proof.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 27 अगस्त, 2015

का.आ. 1742.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदोर प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 197/00) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/08/2015 को प्राप्त हुआ था।

[सं. एल-12012/305/2000-आईआर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

S.O. 1742.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 197/00) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 27/08/2015.

[No. L-12012/305/2000-IR(B-I)]
SUMATI SAKLANI, Section Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/197/00

Shri P.N. Sharma, Chairman,
All India State Bank of Indore Employees
Coordination Committee,
Plot No. 138, Shakti Nagar,
Jabalpur

.....Workman

Versus

General Manager,
State Bank of Indore,
Head Office, 5,
Yeshwant Niwas Road,
Indore

.....Management

AWARD

Passed on this 2nd day of July, 2015

1. As per letter dated 8.11.00 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-12012/305/2000-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of State Bank of Indore, H.O. Indore (MP) in terminating the services of Shri Virendra Singh Bhadoriya *w.e.f.* 1.9.96 while he has worked more than 240 days as peon in various branches of the Bank *i.e.* from 3.12.91 to 9.9.93 in Sadguva branch, from October, 93 to June, 94 in Katni, from June, 94 to August 96 in Durg branch is justified. If not, to what relief he is entitled to?"

2. After receiving reference, notices were issued to the parties. Statement of claim is filed by the Chairman of State Bank of Indore Employees Coordination Committee, Jabalpur at Page 2/1 to 2/2. Case of 1st party is that workman Virendra Singh Bhadoriya was appointed as full time peon on 30.12.91. He was continuously working till 9.9.93. His

appointment was against permanent vacancy. He was only peon in he Bank. His services were wrongly terminated on 10.9.93 without notice or paying pay in lieu of notice. The termination of his services is in violation of Section 25-F of ID Act and bipartite settlement. As per settlement, the engagement of workman against permanent vacancy is deemed to be on probation as per clasification of the employees in para 508 of Sastry Award and is deemed to be confirmed employee after 6 months service as per para 495 of Sastry Award. That after his termination from Sadgua branch, workman was employed at Katni branch from October, 93 to June, 94 and thereafter from June, 94 to August, 96 in Durg branch. His services are illegally terminated without notice. Workman was paid Rs. 20 per day of instead of wages as per full pay scale. Workman was continuously working more than 240 days as defined under Section 25B of ID Act. Termination of his service is in violation of Section 25-F of ID Act.

3. 2nd party filed Written Statement at Page 10/1 to 10/5 opposing claim of the workman. 2nd party raised preliminary objection that reference is not tenable as workman was not employed as permanent employee neither he had attained status of permanent employee. The engagement of workman as casual worker in branches for cleaning premises cannot give him right for absorption in bank service. It will amount to back door entry in violation of rule and regulations. It is reiterated that workman was never working in the Bank. Employer employee relationship is not existing. The reference is vague. It is not tenable. It is further contented that Bank is constituted under SBI Act, 1959. Bank has its own service regulations for recruitment in clerical and subordinate cadre duly formulated by Government of India. The appointment of messengers, peons, guard are made by Head Office following the recruitment procedure giving wide publication in the Newspaper or on the basis of names sponsored by the Employment Exchanges. The appointments are made after following recruitment rules. The branches cannot appoint sub staff without following the procedure. Back door entry in Bank service cannot be permitted. Workman was not given appointment letter. He had not worked as part time or regular employee of the Bank. There was no question of termination of his service. It is further submitted that engaging or utilizing services of casual labour for few hours in the branch for cleaning, sweeping premises doesnot give right of Bank employment. The claim of workman deserves to be dismissed. Workman is not entitled to reinstatement or regularization of his service.

4. Ist party workman filed rejoinder at Page 11/1 to 11/3 reiterating his contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|---------------------|
| (i) Whether the action of the management of State Bank of Indore, H.O. Indore (MP) in terminating the services of Shri Virendra Singh Bhadoriya <i>w.e.f.</i> 1.9.96 is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. Workman is challenging termination of his service, 2nd party raised objection that reference is not tenable. As workman is not appointed as employee of the Bank, there is no employer-employee relationship. However the management has not challenged order of reference therefore contentions raised by 2nd party that reference is not tenable cannot be entertained. The Tribunal is bound to answer the reference. Ist party workman challenge termination of workman for violation of Section 25-F of ID Act.

7. Workman filed affidavit of his evidence. Workman has stated that he was working from 3.12.91 to 9.9.93 in Sadguva branch, from October, 93 to June, 94 in Katni and from June, 94 to August, 96 in Durg branch. He worked for more than 240 days during each calendar year. His services were terminated without notice. After termination of his service, IInd party appointed Shri Ajit Kumar Sahu, Santosh Kumar Sahu, Rajnish Rajak and Shri Mukesh Puri. That he was eligible for absorption as regular employee. He is 40% disabled person. In his cross-examination, Ist party says his name was not sponsored through Employment Exchange. That he received interview call paper No. 14/5. Workman corrected in his further cross-examination that said document was for engagement as temporary employee. Written test was not conducted. That he was working from 8 AM to 10.30 AM for sweeping work, from 10.30 till 5.30 PM, he was doing different work in the bank, distribution of dak, making bundles of notes, was accompanying Bank officer for depositing cash in SBI. Order in writing was not given to him. He was paid on daily wage basis. The payments are made at end of the month. The interviews for absorpton of part time employees was held on 29.9.95. Workman claims ignorance of its result. Again workman says that he produced paper No. 12/2, 12/3 on record. Those documents bears signature of Branch Manager Shri P.K. Upadhyay. He denies that he was closely acquitted with the Branch Manager. He admits that part time employee are not transfered from one Bank to other. He requested certificate of his working for the purpose of his employment. The evidence of workman that he continuously worked more than 240 days during 91 to 96 is not shattered in his cross-examination.

8. Management's witness Shri Santosh Patel filed affidavit of evidence supporting contentions of management in Written Statement. Management's witness in his affidavit has stated that workman worked as casual worker for cleaning branch premises. Simply doing work for few hours does not confer right to workman for his absorption in bank service. Workman was never appointed in Bank service. He was neither given any appointment letter as part time or regular employee. The dispute raised by workman is not tenable. Management's witness in his cross-examination says that in 1991, he was not working in State Bank of Indore. He was not working as Manager in Satgwa branch. He joined service of State Bank of Indore on 12.5.94. He has got information from record for what period workman was working in State Bank of Indore, Saugua branch. He had seen record for the year 1991-92. He did not see record of 1993. That as per record in 1991-92, workman was working as casual labour. The management's witness was unable to tell the exact period. In his further cross-examination, management's witness was unable to tell who were working on daily wages in the bank. The witness of management claims ignorance whether there is any rule for absorption on daily wage employees. He claims ignorance about the documents 15/4, 15/5. The terms of reference pertains no legality of termination of workman and not regularization of his service. The evidence of workman that he worked more than 240 days during each of the year 91 to 96. Document 14/2 is the copy of regulations for absorption of regular employees as the terms of reference does not include regularization of workman. The discussion of said document is of no use. Bank has reiterated that workman was engaged as casual employee. Bank has not produced documents from its custody. Workman cannot be expected to produce the documents. The evidence of workman that he completed 240 days continuous service during each of the year is not shattered. His services are terminated without notice, retrenchment compensation is not paid to him is also not shattered in his cross-examination. Therefore termination of workman is in violation of Section 25-F of ID Act. Therefore I record my finding in Point No. 1 in Negative.

9. Point No. 2, in view of my finding in Point No. 1, workman was terminated illegally in violation of Section 25-F of ID Act, question remains for decision is whether workman is entitled for reinstatement with backwages. As per evidence of workman, he was terminated in 1993 thereafter he was working in Katni and Durg branch and he was working till 1996. The reinstatement of workman would not be appropriate as workman was not sponsored through Employment Exchange. He was not selected following recruitment process. As his services are terminated in violation of Section 25-F of ID Act, compensation Rs. 75,000 would be reasonable. Accordingly I record my finding in Point No. 2.

10. In the result, award is passed as under:—

- (1) The action of the management of State Bank of Indore, H.O. Indore (MP) in terminating the services of Shri Virendra Singh Bhadoriya *w.e.f.* 1.9.96 is not proper.
- (2) 2nd party is directed to pay compensation Rs. 75,000/- to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 27 अगस्त, 2015

का०आ० 1743.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 48/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/08/2015 को प्राप्त हुआ था।

[सं. एल-12011/27/98-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 27th August, 2015

S.O. 1743.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. 48/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the industrial dispute between the management of State Bank of India and their workman, received by the Central Government on 27/08/2015.

[No. L-12011/27/98-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/48/99

General Secretary,
SBI Workmen Union
C/o Shri R.K. Bhatt,
400, Suresh Nagar, Thatipur,
Gwalior

...Workman/Union

Versus

Chief General Manager,
SBI, LHO, Hoshangabad Road,
Bhopal

...Management

AWARD

Passed on this 30th day of June, 2015

As per letter dated 31-12-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12011/27/98/IR(B-I). The dispute under reference relates to:

"Whether the action of the management of State Bank of India in terminating the services of 10 employees (as per list enclosed) is justified? If not, to what relief the workman are entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party Union submitted statement of claim on behalf of 10 employees. Case of Union is all those workmen were employed by State Bank of India as Farrash cum Messenger. Shri Kashiram Shivhare was working from 20-2-86 to Nov-97, Shri Sunil Kumar Sharma from 21-2-83 to 24-5-83 and again from 1-5-85 to 31-2-87, Shri Chandan Singh Puwansi from 31-3-83 to 31-12-87, Shri Santosh Kumar *w.e.f.* 1-1-80 to 7-4-97, Shri Roop Kishore *w.e.f.* 20-2-86 to 7-4-97, Shri Bhagwandas Shivhare from Feb-88 to March 97, Shri Sudamalal from 9-9-85 to 30-3-97, Shri Janaki Prasad from 11-4-87 to 19-5-87, Shri Girdharilal Shivhare from 1990 to 1997 and Shri Rajesh Kumar Shivhare from 27-10-86 to 19-1-87.

3. It is reiterated that all workmen had completed more than 240 days in each of the calendar year. They were in employment of IInd party for more than 10 years. They are covered under Section 25 B of ID Act. Instead of regularizing their services, IInd party terminated their services. Persons junior to them were regularised. Workmen were not given re-appointment. When other persons were recruited, IInd party violated Section 25-H of ID Act. Ratio held in various cases is also referred in the statement of claim and it is submitted that the discontinuation of workman is covered under Section 2(oo) of ID Act. Workman prays for reinstatement with consequential benefits.

4. IInd party filed Written Statement at Page 11 to 27 opposing claim of all the workmen. As per IInd party, all those workmen were employed temporarily as casual employee in various branches of the Bank. Their services were intermittently utilized subject to availability of casual work. The working days of Janki Prasad are shown 81 days on daily wages during 87 to 95, 428 days on consolidated wages during 87 to 95. Working days of Shri Rajesh Shivhare on daily wages are shown 85 days during 86-87, Shri Sunil Sharma on daily wages are shown 44 days during 85-86 and Shri Girdhari Lal on daily wages are shown 225 days during 1990 to 97, their working on consolidated wages are shown NIL. Working days of Roop Kishore on daily wages is Nil and on consolidated wages are shown 3326 days during 86 to 97, working days of Chandan Singh are shown 113 days on daily wages and 5203 days on consolidated

wages during 1983 to 1997, Shri Santosh Kumar worked on daily wages for 67 days and 4115 days on consolidated wages during 86 to 97, Shri Kashi Ram Shivhare on daily wages for 354 days and on consolidated wages for 3533 days during 86 to 97, Shri Sudama Lal on daily wages for 120 days and for 727 days on consolidated wages during 85 to 96 and Shri Bhagwandas Shivhare for 208 days on daily wages and for 3012 days on consolidated wages.

5. IInd party further submits that workman were engaged on daily wages. They had not completed 240 days working during any of the year. In para-2, working days of each of the employees are shown. The engagement of workmen came to end at end of the day. That the workmen are not covered under Section 25 B of ID Act as they have not completed 240 days continuous service. Their discontinuation is covered under Section 2(oo)(bb) of ID Act. All the employees were employed as per exigencies.

6. That pursuant to settlement dated 17-11-87, Bank had considered those workmen for absorption. Those workmen were called for interview on 17-8-92, 26-12-92, 4-11-92, 6-11-92, 26-12-92, respectively. That Sunil Kumar Sharma, Chandan Singh, Santosh Kumar, Girdharilal Shivhare, Rajesh Kumar Shivhare were not found eligible as they did not qualify. Shri Kashiram Shivhare Sudamalal, Roop Kishore were included in the list as they were junior, they could not be absorbed in the Bank service. That Janki Prasad was never employed in Morena branch. That Girdharilal was also not employed at Jiawaji Ganj Mandi Morena branch. He failed to qualify selection. It is reiterated that any of those workmen have not completed 240 days service. Any junior employee were not appointed. Violation of Section 25-F,H of ID Act is denied by the management. It is submitted that as workman did not work more that 240 days continuous service, their non-engagement is not covered under Section 2(oo) of ID Act. Claim of workman is not legal.

7. After parties adduced evidence in support of their respective contentions, my predecessor passed award dated 16-4-12 for reinstatement with backwages of Shri Santosh Kumar, Shri Roop Kishore, Shri Bhagwan Das and Shri Kashiram Shivhare.

8. Said award challenged by management filing Writ petition No. 793/12. The Writ Petition was decided by Hon'ble High Court on 31-10-14 remanding the matter for deciding the matter with due advertence to the oral and documentary evidence and provisions of Section 2(oo)(bb) and Section 25-B and Section 25-F of ID Act.

9. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|-------------|
| (i) Whether it is proved that | In Negative |
| Ist party workmen Shri Kashiram Shivhare, Shri Sunil Kumar | |

Sharma, Shri Chandan Singh Puwansi, Shri Santosh Kumar, Shri Roop Kishore, Shri Bhagwandas Shivhare, Shri Sudamalal, Shri Janaki Prasad, Shri Girdharilal Shivhare and Shri Rajesh Kumar Shivhare are covered under Section 25 B of ID Act?

- | | |
|--|---|
| (ii) Whether it is proved that services of those 10 employees are terminated in violation of Section 25-F,H of I.D. Act? | In Negative |
| (iii) If so, to what relief the workmen are entitled? | Workmen are not entitled to any relief. |

REASONS

10. After remand of the matter, parties did not adduce any additional evidence.

11. **Point No. 1**— While reading the matter, their Lordship has observed that matter be decided considering oral and documentary evidence and provisions of Section 2(o)(bb), Section 25-B, F of ID Act, For proper appreciation, it is appropriate to consider the provisions of Section 2(o)(bb) of ID Act.

Section 2(o) provides:—

Retrenchment as the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include:

- (a) voluntary retirement of the workman, or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf;

Section 2(bb) provides that termination of employment on non-renewal of employment agreement upon its expiry shall not be considered as 'retrenchment'. Before this provision was added to the Act, the Courts were of the opinion that non-renewal of such contracts of employment would constitute retrenchment for the purpose of this Act.

Section 25B deals with Definition of continuous service.—For the purposes of this Chapter,—

- (1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;

- (2) where a workman is not continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer:—

- (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

- (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and
- (ii) two hundred and forty days, in any other case;

12. keeping above provision in view, it is necessary to examine whether all the 10 workmen have completed 240 days continuous service preceding their termination. Identical affidavits of evidence of Shri Roopkishore, Janki Prasad, Bhagwandas, Girdharilal, Kashiram Shivhare, Sunil Kumar Sharma, Rajesh Kumar Shivhare are filed narrating period of their engagement. Those workmen did not remain present for their cross-examination. Therefore their evidence cannot be relied upon. Affidavit of evidence are filed by workman Shri Santosh Kumar, Roop Kishore, Bhagwandas, Janki Prasad, Girdharilal Shivhare, Kashiram Shivhare, Sudamalal, Sunil Kumar Sharma and Rajesh Kumar Shivhare. Shri Janki Prasad has stated period of their engagement from 11-4-87 as messenger/waterboy/Farrash. For absorption as permanent employee, he was called for interview on 17-8-92. His services were illegally terminated on 31-12-93. Again in Para-7 of his affidavit, he stated that this services were illegally terminated on 31-12-97. In his cross-examination, he says that in 1987— he worked for 81 days, in 1991 for 90 days, in 1992 for 90 days, in 1993 for 60 days, in 1994 for 60 days, in 1995 for 84 days, in 1989-90 for 44 days total 428 days. In his further cross-examination, he says that he was called for interview. As per document 9/46, the candidates called for interview were selected considering their seniority. That he worked as messenger for 81 days and waterboy for 84 days. His evidence in cross-examination shows that he had not worked for 240 days during any of the calendar year.

13. Shri Girdhari Shivhare in his affidavit says that he was appointed as messenger cum waterboy on 2-3-90. He completed 7 years service. He was working more than 240 days during each of the year. He was called for interview on 14-11-92. His services were terminated on 31-3-97. In his cross-examination, he says that he worked for 63 days in 1990, 11 days in 1994, 28 days in 1995, 64 days in 1996, 59 days in 1997 total 225 days. He denies that candidates found suitable were given appointment.

14. Shri Kashiram Shivhare in his affidavit says that he was appointed as messenger-cum-waterboy in the Bank

on 1-3-86. He was doing work of providing drinking water, carrying the registers. he was doing sweeping work. Initially he was paid Rs. 100/-p.m. from October, 1991, he was paid Rs. 190 p.m. He was terminated from 29-12-97. In his cross-examination he says he worked for 78 days in 1986, 30 days in 87, 66 days in 88, 50 days in 89, 66 days in 90, 13 days in 1991, 5 days in 1992, 19 days in 1994, 17 days in 1996, 60 days in 1997 total 354 days as messenger/farrash. In his further cross-examination, he admits that he had not completed more than 240 days as messenger/farrash.

15. Shri Sudamalal in his affidavit says he was appointed as messenger cum waterboy on 9-9-85. He was called for interview on 4-11-92. He worked in the Bank till 30-3-97. He had worked more than 240 days during each of the calendar year. He worked for 12 years in the Bank. His services were illegally terminated from 31-12-97. In his cross-examination, he says he worked for 14 days in 1985, 76 days in 1986, 30 days in 1991 total 120 days. He admits that he had not continuously worked for 240 days as messenger cum farrash. Thus it is clear from cross-examination of those workmen that they had not completed 240 days continuous service.

16. My attention was pointed out to evidence of management's witness Shri B.M. Bhati. working days on daily wages and consolidated wages shown at Para 2 and 3 of his affidavit. 3326 days work on consolidated wages are shown of Shri Roop Kishore during the period 86 to 97, 5203 days of Shri Chandan Singh for the period from 83 to 97, 4115 days of Shri Santosh Kumar for the period from 86 to 97, 3533 days of Shri Kashi Ram Shivhare for the period 86 to 97 and 3012 days of Shri Bhagwandas Shivhare for the period 87 to 1997.

Learned counsel for IInd party Mr. Tripathi submits that the working days shown on consolidated wages were not working days. Management's witness Shri Bhati in his cross-examination says that mostly the workmen were engaged on consolidated basis means that they were engaged on fixed rate. It was rate of daily wages. In 3rd column of his affidavit Para-2 the working days shown workmen had worked on daily wages. 3rd column of his affidavit pertains to working on consolidated wages by above said workmen. There is evidence of workman in their cross-examination. They have stated the number of their working days, they have not completed 240 days continuous service whereas management has shown working days on consolidated wages in their Written Statement at Page 2 and 3. Management's witness has also stated working on consolidated wages of those employees, the question arises which of the evidence could be accepted. When workman themselves have categorically stated their working days during all the years and their evidence is clear that they had not completed 240 days continuous service, I find no reason to discard the evidence of the workmen themselves. The evidence given by

management's witness cannot be preferred when categorical evidence given by those workmen stating their working days during the respective years. If quality of evidence of management's witness is examined, management's witness says that he knows Kashiram and Girdharilal personally. He was working in Head Office/Zonal office as Dy. Manager. The contents of his affidavit are based as per record. The register of payment of wages was maintained in respective branch. Personally he had not made payment to any of the workers. He had not seen wage register. Management's witness has no personal knowledge about the working days of all those workmen therefore the statement in Written Statement or affidavit at Page 2-3 about working on consolidated wages cannot be preferred to the evidence in cross-examination of respective workmen stating their working days during all the years. It is clear from evidence in cross examination of workmen that they had not completed 240 days continuous service while working as messenger cum farrash. I may also refer to the ratio relied by counsel for workman Shri A.K. Shashi in—

Case of Ramesh Kumar *versus* State of Haryana reported in 2010(2) SCC 543, The ratio held in the case clearly shows that in addition to factual conclusion by Labour Court that the appellant had worked the required 240 days, appellant also showed that persons similarly situated had been reinstated and regularised.

The evidence in cross examination of the workmen Shri Santosh Kumar, Roop Kishore, Bhagwandas, Janki Prasad, Girdharilal Shivhare, Kashiram Shivhare, Sudamalal, Sunil Kumar Sharma and Rajesh Kumar Shivhare is clear that they have not completed 240 days service. They are not entitled to protection under Section 25-F of ID Act. The ratio cannot be applied to case at hand.

In case of Anoop Sharma *versus* Public Health Division, Haryana reported in 2010(5)SCC497. Their Lordship held burden lies on employer to lead tangible evidence as to compliance with clause a and b of Section 25F.

In present case, the evidence in cross-examination of workman shows that they have not completed 240 days continuous service during any of the year. Ratio held in the case cannot be applied to case at hand. For above reasons, I record my finding in Point No. 1 in Negative.

18. Point No. 2— In view of my finding on Point No. 1 workman did not worked for more than 240 days continuous service workmen, workmen are not covered under Section 25-B of ID Act, workman is alleging termination of service of workman in violation of Section 25-F.

Section 25-F of I.D. Act provides—

"Conditions precedent to retrenchment of workmen— No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) The workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) The workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days average pay for every completed year of continuous service or any part thereof in excess of six months and
- (c) Notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette."

As workman have not complete 240 days continuous service during any of the year of their employment with Ind party, violation of Section 25-F of ID Act by Ind party is not established therefore action of the management terminating services of workmen is held illegal. Therefore I record my finding in Point No. 2 in Negative.

19. Other citations submitted in the matter needs no detailed discussion as workmen have failed to establish working more than 240 days continuous service.

20. In the result, award is passed as under:—

- (1) The action of the management of State Bank of India in terminating the services of these 10 employees is proper and legal.
- (2) Workmen are not entitled to any relief.
- (3) Parties to bear their respective costs.

R.B. PATLE, Presiding Officer

नई दिल्ली, 27 अगस्त, 2015

का.आ. 1744.—औद्योगिक विवाद अधिनियम, (1947 1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबंध में उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 22/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/8/2015 प्राप्त हुआ था।

[सं. एल-12025/01/2015-आईआर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 27th August, 2015

S.O. 1744.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the industrial dispute between the management of State Bank

of India and their workmen, received by the Central Government on 27.08.2015.

[No.L-12025/01/2015-IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID 22 of 2013

Shanti Parkash son of Mr. Ram Chand, resident of 3 BR/B-2/34, Gulmohar City, Dehra Bassi, District Mohali (Punjab).

...Workman

Versus

1. General Manager State Bank of India, Local Head Office, Chandigarh.
2. Deputy General Manager-cum-Circle Dev. Officer, State Bank of India, Sector 17A, Chandigarh.
3. Dy. General manager, State Bank of India, Zonal Office, Shimla, 40 Kaumapati, Shimla (HP).
4. Branch Manager, State Bank of India, Keylong, District Lahaul & Spiti, Keylong (HP).

...Respondents

Appearances :

For the Workman : Sh. K.G. Sharma Advocate

For the Management : Sh. S.K. Gupta Advocate.

AWARD

Passed on : 13.8.2015

1. The workman raised the dispute directly to this Tribunal regarding his forced retirement from service by the respondent management of State Bank of India on the certificate dated 28.11.2011 issued by the Assistant Labour Commissioner (Central), Chandigarh under Section 2(a)2 of the Industrial Disputes Act, 1947 as the conciliation proceedings not concluded in prescribed time under the law. The workman filed claim statement stating there in that workman joined the service with the management on 26.4.1980 and there was no disciplinary action pending against him till 30.6.2007. It is pleaded that due to various reasons he could not attend his duties at SBI Keylong on 1.7.2007 and he had submitted applications explaining the cause of his absence in each application.

2. The Branch Manager sent him notice No. 21/40 dated 15.7.2007 for joining duty within three days. The workman explained his position and submitted application for extension of leave. The branch Manager sent another notice No. 21/67 dated 17.9.2007 for joining duty within

three days which was not possible because of inclination weather heavy snow etc. The medical certificate in response to letter No. 21/77 dated 15.10.2007 was submitted to the branch. It is pleaded by the workman that the branch has not served any of the three mandatory 30 days notices to the workman for joining of duties which is required as per service condition as per 8th Bipartite Settlement on Wage Revision and other Service Conditions for workman staff. Another letter *i.e.* final notice No. 21/176 dated 20.3.2008 sent from the branch and exact on expiry of 30 days from 20.3.2007, on 20.4.2007 the bank retired the applicant from service without following any laid down procedure in a desperate hurry to terminate the services of the applicant. In this way, it is pleaded by the workman that gross injustice has been done to the workman. The workman prayed that order of termination of service may be set aside and the workman may be allowed to join duties along with wages notional elevation and corresponding increase in salary and allowances along with 18% interest on the amount due from the date of discharge from service till payment.

3. The management in reply has taken preliminary objection that the claim of the workman deserved to be rejected as he has come to the court after five years which is inordinate delay and claim at this belated stage is not maintainable. It is further pleaded that the claim of the workman is not maintainable as the services of the workman were never dismissed, terminated or retrenched by the management; therefore, the present dispute is out of scope of the Section 2A of the I.D. Act 1947. Management also pleaded in written statement that the claim of the workman is not maintainable in view of the application of the workman under Section 33C(2) is pending before this Court (this application has been disposed off). The workman in this application U/S 33C(2) of the I.D. Act 1947 alleged that he was taken the voluntary retirement under the Exit Policy of the bank and is entitled for compensation under the VRS Scheme. On the other hand in the present industrial dispute, the workman is claiming reinstatement on account of illegal termination of the services of the workman by the management bank, thus blowing hot and cold in the same breath and has taken the self contradictory stand. On merits, in written statement it is pleaded that due to the frequent absence of the workman from duty, disciplinary action was initiated against the workman and was pending at the relevant time. The workman remained unauthorizedly absent for 17 months and 13 days during entire service. Disciplinary action was taken against him and a punishment of warning was inflicted on him. The workman remained unauthorizedly absent from duty *w.e.f.* 1.7.2007. The workman neither submitted any application for leave nor responded to any of the correspondence or notice served by the management on the workman. The workman contention regarding the illness of the workman and his

family members were denied by the management for want of knowledge. the management specifically pleaded in written statement that workman never sent any leave application rather remained willfully absent from duty even after receipt of the notice dated 15.7.2007 from the respondent management. Another notice dated 17.09.2007 was sent to the workman when nothing was heard from the workman. The management also pleaded that as per record no leave application or medical certificate was ever submitted by the workman. The management initiated the action after due compliance of the mandatory rules.

4. In evidence the workman filed his affidavit as Ex. W1 and also filed document Ex. W2 to W.15. The management in evidence filed affidavit of Ms. Sukhvinder Kaur and of Ms. Anupama Sharma, Manager (HR, Regional Business Office State Bank of India, Mandi. Management examined Ms. Anupama Sharma in evidence as MW1 who tendered her affidavit Ex.M1 and also relied on documents Ex. M2 to M12.

5. I have heard the arguments and gone through the evidence and record of the case. I have also gone through the written arguments filed by the workman.

6. The learned counsel for the workman cited para 33 of the Bipartite Settlement issued through circular dated 17.6.2005 which reads as under:

"33 Voluntary Cessation of Employment:

- (i) When an employee absent himself from work for a period of 90 days or more consecutive days without prior sanction from the competent authority or beyond the period of leave sanctioned originally including any extension thereof or when there is satisfactory evidence that he has taken up employment in India or outside, the management at any time thereafter may give a notice to the employee at his last known address as recorded with the bank calling upon him to report for work within 30 days of the date of notice.

Unless the employee reports for work within 30 days of the notice or gives an explanation for his absence within the period of 30 days satisfying the management *inter-alia* that he has not taken up another employment or avocation, the employee shall be given a further notice to report for work within 30 days of the notice failing which the employee will be deemed to have voluntarily vacated his employment on the expiry of the said notice and advised accordingly by registered post."

7. It is submitted by the learned counsel for the workman that the requirement as per rule 33 mentioned above was never satisfied by the management. The management opposed the submission of the learned counsel for the

workman and pointed out that notices were sent to the workman. Besides this, it is also submitted by the learned counsel for the management that workman himself in the application U/S 33C(2) of the I.D. Act 1947 (certified copy filed) mentioned that workman opted for Exit Policy of the bank and in the claim statement submitted that he may be allowed to join duty in the bank and workman also claim wages *w.e.f.* 1.7.2007 with notional elevation in service and corresponding increase in salary and allowances and workman is not entitled to any relief because he himself has prayed for VRS and now the workman is estopped to claim reinstatement in this case.

8. The management submitted that workman was unauthorizedly absent from duty *w.e.f.* 1.7.2007. He was asked to join duty by sending notices. Workman submitted that due to his illness and other family members illness he could not join duty after 1.7.2007 and workman sent leave applications. The workman in his cross-examination before this Tribunal stated that on 1.7.2007 he applied for seven days casual leave. Thereafter he sent application for 30 days earned leave due to wife illness. Thereafter, he himself fell ill. The bank asked him to furnish medical certificate. He also stated that all the applications were sent to the bank through registered post. The copies of those applications are with him which are kept in his home. The workman clearly admitted that he never went to the bank to joint duty and informed the bank about his illness. The workman also admitted that he was informed by the bank on 15.7.2007, 17.9.2007 and 15.10.2007 to joint duty but he replied to the bank that he cannot join duty due to his illness. Workman also stated that these replies were sent to the bank through registered post and the postal receipts are kept in his home. It is pertinent to mention that the bank denied having received any leave application or medical certificate of the workman.

9. The learned counsel for the bank also relied upon and referred the case laws 2009(4) RSJ 653 S.C. Regional Manager Bank of Baroda Vs. Anita Nandrajog, 2005(3) RSJ 136 Viveka Nand Sethi Vs. Chairman J&K Bank Ltd. and others, 2001(1) SSC 214 Punjab & Sind Bank and others Vs. Sakattar Singh, 2005(5) Supreme Court Cases 65 Syndicate Bank Vs. General Secretary, Syndicate Bank Staff Association and another.

10. It is well settled principles of jurisprudence that claimant has to prove his own case. He can not be allowed to get the advantages of the short coming if any on the part of the other party. So far the conduct of the workman is concerned, he himself pleaded contrary submissions as mentioned above. The workman absented himself from duty *w.e.f.* 1.7.2007 and as per own version, as admitted by him during cross-examination before this Tribunal, that he sent leave applications to the bank through registered post, but not filed those copies of leave applications and receipts of

postal department in this Tribunal. It was the workman who in order to prove that he sent these applications and medical certificate should produce copies of those applications and medical certificate along with the postal receipt in this Tribunal. The public office/institutions are run by diligent and duty committed people. When an employee remain unauthorizedly absent from duty, then the working of those public/institutions bound to suffer. In 2005(3) RSJ 136 Viveka Nand Sethi Vs. Chairman, J&K Bank Ltd. and others, the Hon'ble Supreme Court has held that when facts are admitted, an enquiry would be an empty formality and even the principle of estoppels will apply.

11. In view of the discussion in the forgoing paras, it is held that workman has failed to prove that he sent leave applications and medical certificate through registered post as alleged by him. From the conduct of the workman it also proves that he never went to join duty with the bank. The workman has taken the entirely contradictory stand as set up in application U/S 33C(2) of I.D. Act 1947 and in the claim statement.

12. In view of the above, the workman is not entitled to any relief. The industrial dispute filed U/S 2(a)2 of the I.D. Act 1947 is disposed off accordingly.

13. The reference is answered accordingly. Soft as well as hard copy be sent to the Central Government for publication.

Chandigarh
13.08.2015

S. P. SINGH, Presiding Officer

नई दिल्ली, 27 अगस्त, 2015

का०आ० 1745.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) 14 की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध 1 में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 12/00) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/08/2015 को प्राप्त हुआ था।

[सं० एल-12012/342/99-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 27th August, 2015

S.O. 1745.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/00) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 27/08/2015.

[No. L-12012/342/99-IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/12/00

Shri Mohd. Ismail,
S/o Fakruddin,
Kambal Kendra,
New Abadi, Mandisor,
Distt. Mandore(MP)

...Workman

Versus

Asstt. General Manager,
State Bank of India,
Region-V, Zonal Office,
Hamidia Road,
Bhopal (MP)

...Management

AWARD

Passed on this 24th day of July, 2015

1. As per letter dated 23-24/12/99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/342/99/IR(B-I). The dispute under reference relates to:

"Whether the action of the management of State Bank of India in terminating the service of Shri Mohd. Ismail S/o Fakruddin *w.e.f.* 12-12-98 is justified? if not, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/4. Case of Ist party workman is that he was engaged as waterman from 26-4-93 in Mandore Branch of the State Bank. He was paid Rs. 28/- per day. He was working with devotion. Management considering his excellent services increased his wages from Rs. 28/- to 38/- from 27-4-95. His wages were increased to Rs. 44/- per day. However without any reasons, management of 2nd party reduced his wages to Rs. 30/- per day from 1-4-98. Workman submitted representation on 28-3-98 reporting that there were difficulties in fetching water from long distance. After said representation, Branch Manager reduced his wages to Rs. 30/- per day. That from 12-12-90, his services were suddenly discontinued without any notice. He was not paid retrenchment compensation. Workman submits that charge sheet was not issued to him before terminating his services. His services are illegally terminated. His statement of claim is further devoted that the information about making reference in this Tribunal and the matter was not traced. The Court was shifted. Workman got information about the proceeding with quite difficulty. Workman claims for his reinstatement with backwages.

3. 2nd party filed Written Statement at Page 8/1 to 8/5 opposing claim of the workman. 2nd party contends that workman was employed on contractual basis as daily rated employee for fetching and filling water at Mandore Branch. The working days of workman are shown 85 days in 1993, 146 days in 1994, 322 days in 1995, 277 days in 1996, 291 days in 1997 and 280 days in 1998. The engagement of Ist party workman was on contractual basis depending on exigency of work. The employee was free not to come on the next day. Management was also at liberty not to engage workman on next day. Wages of employee were said prior to his engagement. Non-engagement of workman is covered under Section 2(oo)(bb) of ID Act and amounts to illegal retrenchment.

4. 2nd party further submits that workman was paid one month wages Rs. 750/- and retrenchment compensation Rs. 1800/- on 12-12-98. Ist party workman was requested to collect the cheque of compensation amount of Rs. 2550/- which he left in the Bank after duly acknowledging the same. It is reiterated that as workman was paid one month's notice and retrenchment compensation, there is no violation of Section 25-F of ID Act. The contractual appointment came to end at end of the contract. The engagement on daily wages came to end when it is discontinued. On such ground, 2nd party submits that claim of workman cannot be accepted.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|---------------------|
| (i) Whether the action of the management of State Bank of India in terminating the service of Shri Mohd. Ismail S/o Fakruddin <i>w.e.f.</i> 12-12-98 is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final orders |

REASONS

6. Workman filed affidavit of his evidence saying that he was engaged as waterman on daily wages from 26-4-93. He was paid Rs. 28/- per day. He was working with devotion. His wages were increased to Rs. 38,44 per day from 1-4-98. From 12-12-98 without issuing any notice, he was discontinued. He was not paid wages Rs. 2500/-. However his signature was obtained forcibly. His request for reinstatement as per letter dated 27-1-99 was not responded. Workman in his cross-examination says his wages were reduced from Rs. 44 to 30/- per day. He was appointed on contingency. Appointment letter was not issued to him. The Branch Manager has prepared one monogram and obtained his signature. Orally he was discontinued from

the Bank. Notice was issued by him through Advocate Purushottam Agrawal. He was paid wages Rs. 35/- per day. The cheque of Rs. 2550/- of retrenchment compensation was prepared. He was not given that cheque. Amount of Rs. 2550/- was not paid to him. Workman denied his signature on receipt of compensation amount.

7. Management's witness Shri Gopikishan Sugandhi in para-2 of his affidavit has narrated working days of workman. 322 days in 1995, 277 in 1996, 291 days in 1997, 280 days in 1998. It is clear that workman worked for more than 240 days during above years. That engagement of workman was on contractual basis as per exigencies of work. Management was at liberty engage workman. That Ist party was paid one months wages Rs. 750/- and retrenchment compensation Rs. 1800/-. Workman was requested to collect cheque of Rs.2550/- duly acknowledging it. Ist party refused its delivery by post. Documents Exhibit M-1, M-2 are proved from evidence of management's witness. Exhibit M-1 is letter given by Manager to the workman for his temporary engagement as there are no approved vacancies available. His services stands terminated with immediate effect. Bank's cheque of Rs. 2550/- was offered. It included retrenchment compensation Rs. 1800/- and Rs. 750/- as months pay. How retrenchment compensation is calculated is not shown. As per evidence of workman, he was paid Rs. 30/- per day. His monthly wages would come to Rs.900/- per month. Exhibit M-1 one month pay in lieu of notice is shown Rs. 750/-. Workman has denied receipt of cheque. Evidence of management's witness is silent when amount of Rs. 2550/- was paid/received by the workman. In absence of such evidence, the payment of retrenchment and pay in lieu of one months notice is not established. Therefore termination of services of workman is illegal for violation of Section 25-F of ID Act. Therefore record my finding in Point No. 1 in Negative.

8. Point No.2—In view of my finding in Point No. 1, termination of services of workman is illegal for violation of Section 25-F, question remains for consideration whether workman is entitled for reinstatement with backwages. Workman was engaged on daily wages from 1993 to 1998. Workman was not issued appointment letter. His engagement was on contingency as per evidence in cross-examination of the workman therefore workman cannot be reinstated with backwages. Considering the period of work, compensation Rs. 75,000/- would be appropriate. Accordingly I record my finding in Point No. 2.

9. In the result, award is passed as under:—

- (1) The action of the management of State Bank of India in terminating the service of Shri Mohd. Ismail S/o Fakruddin w.e.f. 12-12-98 is not proper.

- (2) 2nd party is directed to pay compensation Rs. 75,000/- to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer.

नई दिल्ली, 27 अगस्त, 2015

का०आ० 1746.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ बिकानेर एण्ड जयपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 23/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/08/2015 को प्राप्त हुआ था।

[सं० एल-12012/129/90-आईआर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 27th August, 2015

S.O. 1746.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23/96) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial dispute between the management of State Bank of Bikaner and Jaipur and their workmen, received by the Central Government on 27/08/2015.

[No.L-12012/129/90-IR (B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/23/96

Shri R.K. Verma,
S/o Shri B.L. Sharma, 6/13,
Jagdish Ki Gali,
Ganesh Niketan,
Nayapura,
Ujjain(MP)

...Workman

Versus

Branch Manager,
State Bank of Bikaner and Jaipur,
Daulatganj Branch,
31/608, Daulatganj,
Gwalior

...Management

AWARD

Passed on this 26th day of June, 2015

1. As per letter dated 12-1-96 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/129/90/IR(B-III)D-3(A). The dispute under reference relates to:

"Whether the action of the management of State Bank of Bikaner and Jaipur, Gwalior Branch in not providing employment to B.K. Sharma S/o Shri B.L. Sharma clerk cum cashier after 27-1-1981 (date of termination) *i.e.* whether his said termination is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 6/1 to 6/6. Case of workman is that he was initially appointed as clerk cum cashier on 31-10-80 as per the process of law by IInd Party. He was continued till 27-1-81 without any break. He worked with sincerity and honesty. He was not issued with any chargesheet, no Departmental Enquiry was conducted against him. He was appointed as cashier cum clerk on vacant post in new branch of IInd party at Daulatganj branch, Gwalior. He was qualified and eligible to hold said post. Workman was also ordered to look after the duties of Head cashier in the branch. Workman performed said work satisfactorily. That vacant post of clerk cum cashier in the branch was never filled by regular employee. The duties of said post were entrusted by management to him. He was expecting regularization on the post as per policy of the Bank and prevailing loss.

3. Workman further submits his services were discontinued by Bank by now allowing him on duty, any reasons were not assigned for it, showcause notice was not issued to him. His services were discontinued from 28-1-81. Workman further submits that retrenchment compensation was not paid to him. His services were terminated without notice, termination of his service by management is illegal. His fundamental rights under Article 14,15 of the constitution are violated. The termination of his service is in violation of provisions of ID Act. He was not provided differential employment as retrenched employee. Register of retrenched staff was not maintained. Appointment and termination was not given to him in writing. Principles of last first go was not followed. Termination of his service is in violation of Para 507, 516, 522 Clause 4 & 5, 524 I of Sastri Award. The termination of his service is also in violation of Section 25-(T,U) of ID Act. Seniority list was not prepared and displayed on notice board. On such ground, workman prays for reinstatement with consequential benefits.

4. Management filed Written Statement at Page 15/1 to 15/2 opposing claim of the workman. IInd party submits

that the reference is highly belated. Reference was made without applying mind. Workman was never appointed against clear vacancy. Workman had not completed 240 days continuous service contemplated under Section 25B of ID Act. Termination of service of workman doesnot amount to retrenchment in violation of Section 25-F of ID Act. The averments of workman in statement of claim are vague. It is submitted that recruitment in Bank is always to be done as per settled procedure for recruitment advertising the post in national news paper. The selection of candidate is made after examination. All adverse contentions of workman have been denied. It is submitted that workman was not entitled to hold the post claimed by him.

5. Ist party workman filed rejoinder at Page 17/1 to 17/3 reiterating his contentions in statement of claim. Workman submits that he is employee covered under Section 25B of ID Act. His services are terminated in violation of Section 25G, H of ID Act. After his termination, Bank had employed Shri Mukesh Chandra, Ashok Mishra, Ashok Kumar, Mrs. Beena Mishra, Shri Vishal Saxena, Saryendra Singh, Suresh Kumar Bajaj, Shyam Kishore Agoa & Brijendra Kumar Sharma. He was not given opportunity by the management. All those persons were employed in the Bank.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|--|
| (i) Whether the action of the management of the State Bank of Bikaner and Jaipur, Gwalior Branch in not providing employment to Shri B.K. Sharma S/o Shri B.L. Sharma clerk cum cashier after 27-1-1981 (date of termination) <i>i.e.</i> whether his said termination is justified? | In Affirmative |
| (ii) If not what relief the workman is entitled to? | Workman is not entitled to any relief. |

REASONS

7. Workman filed affidavit of his evidence. Workman has stated that he was initially appointed as clerk cum cashier by management on 31-10-98 following due process of law. He was continued till 27-1-80. Date of his appointment appears to be wrongly stated. He was appointed by management against clear vacancy of cashier cum clerk at Daulatganj Branch, Gwalior. Said post was sanctioned. He was classified and eligible to hold said post. In his statement of claim and affidavit of evidence, workman has not disclosed what was the qualification for post of cashier cum clerk and what qualifications he held for his appointment. His further affidavit is devoted on the point

that instead of regularizing his services, he was discontinued after 27-1-81. That he was again retained in service without official orders. In his cross-examination, workman says that he worked from 31-10-80. Date of his appointment is 31-10-98 in his affidavit is a typing mistake. He received appointment letter. It is not produced in the case. As his Advocate did not ask for said document, it was not furnished. It is denied that he was not appointed in the Bank. In his further cross-examination, workman admits that for appointment in Bank, post are advertised and the applications are invited. Prior to his appointment, no examination was conducted, he was appointed on direct application. After his oral termination, he submitted representations to the Bank and ALC. His document are not with him. In the year 1982-83, he had submitted representations to the Bank when juniors were appointed and he was not regularised. He requested Bank for giving appointment letter. Bank did not give him letter of appointment. Workman was ready to produce appointment letter. However the workman has not produced any letter of his appointment on record.

8. Management filed affidavit of witness Shashikant. Management's witness states that workman was never appointed against clear vacancy of management. Workman had not completed 240 days working in the preceding year of his termination. Management's witness in his cross-examination says workman was not appointed by him, workman did not work under him. He claims ignorance that he has personal knowledge of the facts of the case. That Branch Manager has power to appoint employee of any category considering exigencies. Workman did not work in Bank. There is no record about working of Ist party workman from 31-10-80 to 27-1-81. Management's witness was unable to tell about sanctioned post at Daulatganj Branch in 1980, how many employees were working on sanctioned post and how many sanctioned post were lying vacant. Management's witness denies that workman was paid under voucher during above said period. He has also denied engagement of the persons shown in Para-6 of the rejoinder in the Bank.

9. During course of argument, learned counsel for workman Shri N.B. Sharma pointed out my attention to para 6 of statement of claim and emphasized that management violated Section 25 H. When 14 persons were engaged, workman was not given opportunity of re-employment. There is no cross-examination about appointment of 14 persons. It is emphasized that for violation of Section 25-H of ID Act, workman is entitled for re-employment. Workman has not produced any documents about employment of persons names stated in Para 11 of his affidavit. Management's witness in his cross-examination has denied appointment of persons shown in Para-6 of the rejoinder. In absence of any document regarding appointment of such persons, claim of Ist party

workman about violation of Section 25-H of ID Act cannot be accepted.

10. Learned counsel for Ist party Shri R.C. Shrivastava in his argument submits that reference is highly belated, is not tenable. Statement of workman about completing 240 days continuous service, workman has not discharged burden. In support of his argument, learned counsel for management relies on ratio held in—

Case of *S.T. Hadimani versus State of Karnataka* and another reported in 2002 AIR SCW 909. Their Lordship dealing with termination in violation of Section 25-F of ID Act held onus lies upon claimant that he had worked for 240 days in a year preceding his termination.

The workman has not produced any document about payment of salary or his attendance. Any co-employee is not examined. Workman has failed to establish that he was continuously working more than 240 days preceding his termination rather as per his pleading in statement of claim, the workman was working from 31-10-80 till 27-1-81 for less than 3 months. Claim of workman that he worked more than 240 days in contrary to his own pleadings.

Reliance is also placed by Shri R.C. Shrivastava for management on ratio held in case of—

Surendranagar District Panchayat versus Dahyabhai Amarsinh reported in 2005(8)SCC 750. Their Lordship dealing with the period for which employer to supply records called for by court, in proceedings under adverse inference when may be drawn by court held that scope of enquiry before Labour Court was confined to only twelve months preceding the date of termination to decide question of continuation of service for purpose of Section 25-F. That courts wrongly drawn adverse inference.

11. The evidence of workman is not sufficient to establish his continuous working more than 240 days therefore termination of his service in violation of Section 25-F is not established. No evidence about appointment of other persons after his termination is established therefore violation of Section 25-G, H of ID Act cannot be established. For above reasons, I record my finding in Point No. 1 in Affirmative.

12. Point No. 2 — In view of my finding in Point No. 1, workman has failed to establish termination of his service in violation of Section 25-F, G, H of ID Act, the learned counsel for management on point of delay relies on ratio held in—

General Manager Punjab Roadways versus Amrik Singh and another reported in 2013(138)FLR-912. Their Lordship held though there is no time limit prescribed but stale disputes cannot be referred to under Section 10 of ID Act.

The dispute is already referred. The order of reference is not challenged. However in view of my finding in Point No. 1 as workman has failed to establish his claim, he is not

entitled to any relief. Accordingly, I record my finding in Point No. 2.

13. In the result, award is passed as under:—

- (1) The action of the management of the State Bank of Bikaner and Jaipur, Gwalior Branch in not providing employment to Shri B.K. Sharma S/o Shri B.L. Sharma clerk-cum-cashier after 27-1-81 is proper and legal.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer.

नई दिल्ली, 27 अगस्त, 2015

का.आ. 1747.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 59/06) को प्रकाशित करती है जो केन्द्रीय सरकार को 27/08/2015 को प्राप्त हुआ था।

[सं. एल-41012/13/2006-आईआर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 27th August, 2015

S.O. 1747.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 59/06) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Central Railway and their workmen, received by the Central Government on 27/08/2015.

[No. L-41012/13/2006-IR(B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/59/06

Shri Ram Prakash,
S/o Ramdayal Valmik,
R/o Nabadabad,
Near Narrow Gauge Rly. Station,
Bhind

....Workman

Versus

Asstt. Mechanical Engineer,
Loco Shed, Narrow Gauge,
Central Railway,
Gwalior

....Management

AWARD

Passed on this 23rd day of June, 2015

1. As per letter dated 13-9-06 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41012/13/2006-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Assistant Mechanical Engineer, Locoshed Narrow Gauge, Central Railway, Gwalior and Varishta Mandal, Yantrik Abiyanta, Central Railway, Jhansi in terminating the services of Shri Ram Prakash w.e.f. 1-2-99 is justified? If not, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 4/1 to 4/3. Case of workman is that his uncle Shri Ringa-Jhinga was working under Assistant Engineer, C. Railway, Gwalior as part time sweeper for more than 20 years. His uncle was seriously ill, he submitted application for appointment of workman on compassionate appointment as part time sweeper. Workman was appointed as part time sweeper from 21-6-97. He worked with devotion. His services were orally discontinued from 1-2-99 on the ground that Gwalior Bhind Rail was closed. Said reason was false. In place of narrow gauge, broad gauge was started between Gwalior to Bhind. That though workman had continuously worked from 21-6-97 to 1-2-99, his services were terminated without notice, retrenchment compensation was not paid to him. His services are terminated in violation of section 25-F of ID Act. On above contentions workman prays for his reinstatement with backwages.

3. IInd party filed Written Statement opposing claim of the workman. IInd party submits that on request of Shri Ringa-Jhinga, uncle of workman, workman was allowed to work as part time sweeper at Rs. 120/- per month. His engagement was on contract basis. Workman cannot claim to be casual labour. There was clear stipulation that workman would not be entitled to claim for regular employment. Workman was initially paid Rs. 70 per month. It was increased to Rs. 120 p.m. The narrow gauge Railway was completely stopped therefore claim of workman cannot be accepted.

4. IInd party also submitted Written Statement on 3-8-2011 reiterating his contentions in Written Statement filed on record.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|-------------|
| (i) Whether the action of the management of Assistant Mechanical Engineer, | In Negative |
|--|-------------|

Locoshed Narrow Gauge, Central Railway, Gwalior and Varishta Mandal, Yantrik Abiyanta, Central Railway, Jhansi in terminating the services of Shri Ram Prakash *w.e.f.* 1-2-99 is justified?

- (ii) If not, what relief the workman is entitled to?" As per final orders.

REASONS

6. Workman filed affidavit of evidence in support of his claim. Workman has stated that he was appointed on compassionate ground after application submitted by his uncle. He was appointed as part time sweeper from 1-6-97. His services were terminated from 1-2-99. He was terminated on the ground that Gwalior Bhind Railway route was closed. That narrow gauge is changed into broad gauge between Gwalior to Bhind. His services were terminated without notice, he was not paid retrenchment compensation. Workman in his cross-examination says his uncle Ringa-Jhinga was working as part time sweeper. He denies that his engagement was on contract basis. Workman was unable to tell whether name of his uncle was sponsored through Employment Exchange. He denies that his uncle was not regular employee of the Indian party. He has not produced appointment letter of his uncle. In his further cross-examination, workman says he was engaged as per order dated 1-6-97. He denied that he was paid wages for his working days. He denies that he was engaged as per exigencies. He admits that he was required to carry sweeping, cleaning work of 4 coaches. He denies that he was working one hour morning one hour evening. In his further cross-examination, he says after narrow gauge was closed, broad gauge was started.

7. Management's witness Rafiq Ahmed filed affidavit of his evidence supporting claim of management in Written Statement. That workman was engaged as part time sweeper in narrow gauge route. Workman was working 1-1/2 hour for cleaning. He was paid Rs. 70 p.m., it was increased to Rs. 120 p.m. Shri Ringa-Jhinga uncle of workman was not keeping good health. On his request, workman was allowed to work in his place. That engagement of workman was on contract basis. In his cross-examination, management's witness says one months notice was not issued to workman, retrenchment compensation was not paid to him. Management's witness admits that workman was engaged during the period 21-6-97 to 1-2-99 as part time sweeper. The document about contract is not produced. Management's witness was unable to tell whether after broad gauge started, other persons was engaged as sweeper. That seniority list of part time employees is not maintained. Section 2(s) of ID Act does not exclude part time labours.

8. Workman has produced documents. In Exhibit W-1, sanction is granted by General Manager to increase rate from Rs. 70/- to Rs. 120/- p.m. to the sweepers. Exhibit W-2 shows on request of Shri Ringa-Jhinga part time sweeper, workman was allowed to work in his place on payment of Rs. 120 p.m. Exhibit W-3 is copy of application submitted before ALC. W-4 is letter issued by Loco Foreman that engagement of workman as part time sweeper on pay Rs. 100 p.m. was on contract basis. Exhibit W-5 is copy of order passed by CAT dt. 2-4-99- claim of 1st party workman was not entertained. Workman was given liberty to approach Industrial Tribunal/Labour court. The claim of workman about his engagement is supported by document Exhibit W-2 and W-4. The services of workman are terminated without notice, retrenchment compensation was not paid to him, therefore termination of workman is illegal for violation of Section 25-F of ID Act. For above reasons, I record my finding in Point No. 1 in Negative.

9. **Point No. 2** — In view of my finding in Point No. 1 that termination of service of workman is illegal, question arises whether workman is entitled for reinstatement with back wages. The evidence of management's witness that narrow gauge between Gwalior to Bhind is closed. Uncle of workman was working on part time basis, on his request, workman was allowed to work in place of his uncle. Appointment letter was not given to him workman had worked from 21-6-97 to 1-2-99 on part time sweeper. Workman was paid Rs. 120/- p.m.

10. Learned counsel for workman pressing for reinstatement of workman placed reliance on ratio held in Case of Deepak Gundu Surwase and Kranti Junior Adhyapak and others reported in 2013(139)FLR 541. Their Lordship dealing with question of reinstatement and backwages held if action taken against the employee by the employer or found to be ultra vires the relevant statutory provisions or principles of natural justice by competent judicial/Quasi judicial body or court. Employee reinstated restoring employee to position he held before dismissal or removal or termination implies that he will be put in the same position in which he would have been but for illegal action taken by the employer.

In above cited case, petitioner was school teacher, she was suspended and enquiry against petitioner was vitiated. Facts of present case are not comparable. In above cited case, the petitioner was appointed as teacher and various memos were issued to her when she did not agreed to contribute amount of Principal Taxes claim by the management, the facts are not comparable.

In Para 33 of the judgement, their Lordship held on propositions in case of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule. Said rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the court may take into consideration the length of

service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman the financial condition of the employer and similar other facts. If the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then there will be ample justification for award of full back wages. The courts must always keep in view that in the cases of wrongful illegal termination of service, the wrong doer is the employer and sufferer is the employee workman and there is no justification to give premium to the employer of his wrong doings by relieving him of the burden to pay to the employee workman his dues in the form of back wages.

In case of Jasmer Singh *versus* State of Haryana reported in 2015(144)FLR 837. Their Lordship dealing with Section 25-F, G, H of ID Act held that he completed more than 240 days of continuous service in one calendar year, workman was allowed reinstatement with full back wages.

Reliance is also placed in case of Bhuvanesh Kumar Dwivedi and M/s. Hindalco Industries Ltd. reported in 2014(142)FLR 20. The order of reinstatement with back full wages set-aside by Hon'ble High Court and allowing compensation Rs. One Lakh was set-aside.

The facts of above all cases are not comparable. Workman was engaged as part time sweeper on monthly pay Rs. 120/- from June 97 to 1-2-99 for less than 2 years. Considering the engagement of workman on part time basis on monthly pay Rs. 120/-, compensation Rs. 20,000/- would be appropriate. Accordingly I record my finding in Point No. 2.

11. In the result, award is passed as under:—

(1) The action of the management of Assistant Mechanical Engineer, Locoshed Narrow Gauge, Central Railway, Gwalior and Varishta Mandal, Yantrik Abiyanta, Central Railway, Jhansi in terminating the services of Shri Ram Prakash *w.e.f.* 1-2-99 is not proper and legal.

(2) IInd party is directed to pay compensation Rs. 20,000/- to the workman.

R.B. PATLE, Presiding Officer

नई दिल्ली, 27 अगस्त, 2015

का.आ. 1748.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 2/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 27/08/2015 को प्राप्त हुआ था।

[सं. एल-12011/66/2014-आईआर(बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 27th August, 2015

S.O. 1748.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 2/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workman, received by the Central Government on 27/08/2015.

[No. L-12011/66/2014-IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/2/2015

Presiding Officer: Shri R.B. Patle

General Secretary,
Dainik Vetan Bhogi Bank Karmchhari
Sangathan, F-1, Tripti Vihar,
Opp Engg. College,
Ujjain (MP)

...Workman/Union

Versus

Chief General Manager,
State Bank of India, L.H.O.
Hoshangabad Road,
Bhopal

...Management

AWARD

Passed on this 1st day of July, 2015

1. As per letter dated 23-12-2014 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12011/66/2014-IR (B-I). The dispute under reference relates to:

“Whether the demand of Union claiming difference of wages in respect of Shri Ashok Kumar Rajak from 1-6-09 to 12-9-09 is justified or not? If so, what relief the daily wager is entitled for?”

2. Ist party workman is claiming recovery of difference of wages from management in the dispute under reference. Even after issuing notices, the Union did not participate in the proceeding, no statement of claim is filed.

3. IInd party management also not filed Written Statement.

4. Application on behalf of workman is filed for withdrawal of the case. Management has no objection. As workman has withdrawn his claim, the dispute between parties ceased to exist. The reference stands disposed off as withdrawn.

R.B. PATLE, Presiding Officer

नई दिल्ली, 27 अगस्त, 2015

का.आ. 1749.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बांग्या ग्रामीण विकास बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोलकाता के पंचाट (संदर्भ संख्या 08/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 27/08/2015 को प्राप्त हुआ था।

[सं. एल-12011/54/2008-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 27th August, 2015

S.O. 1749.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 08/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the management of Bangiya Gramin Vikas Bank and their workmen, received by the Central Government on 27/08/2015.

[No. L-12011/54/2008-IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT, KOLKATA

Reference No. 08 of 2010

Parties :

Employers in relation to the management of Bangiya
Gramin Vikash Bank

AND

Their workmen

Present:

Justice Dipak Saha Ray, Presiding Officer

Appearance :

On behalf of the : Mr. Aowal Alam, Manager (Legal
Management & Vigilance)

On behalf of the : Mr. Dhisankar Pal, General
Workmen Secretary of the Union

State: West Bengal

Industry: Banking

Dated: 18th August, 2015

AWARD

By Order No. L-12011/54/2008-IR(B-I) dated 23.06.2009 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Bangiya Gramin Vikash Bank in transferring 1438 employees (excluding non-workmen) without following any norms and guidelines/policies regarding transfer/posting, is justified? If not, to what relief the concerned workmen are entitled?”

2. The case of the union *viz.* Bangiya Gramin Vikash Bank Employees' Union is, in a nutshell, as follows:

On 31.07.2008 management of the Bank, hereinafter referred to as management, issued mass scale transfer orders in respect of 1438 employees of the Bank, without following any guidelines/policies of transfer/posting. Such mass transfer orders of the employees were made without any administrative need and/or exigencies. The said transfer orders were issued without creating matching post to protect the wages of the employees. It is alleged that the said transfer orders were issued with ulterior motive in order to harass and victimize the employees. Accordingly the union raised industrial dispute challenging the said transfer orders. Hence this reference.

3. On the other hand, the management has opposed the claim of the union by filing written statement contending, *inter alia*, that out of 1438 employees (in respect of whom transfer orders have been issued) 645 are officers (non-workman) and 793 are Award Staff (workmen). Out of the said 793 workmen, 102 workmen are the members of Bangiya Gramin Vikash Bank Employees' Union, *i.e.*, the union who raised the industrial dispute. Other unions *viz.* Bangiya Gramin Bank Employees' Association and Bangiya Gramin Bank Employees' Congress did not raise any objection against the said orders of transfer. It is also the case of the management that the Bank had formulated Manpower Deployment Policy based on business parameter, ancillary business, potentiality of the branches. *Inter-se* seniority list of all categories of staff has also been finalized and approved by the Board of Directors of the Bank and transfer/posting has been effected on the basis of these policies. According to the management the transfer orders were issued for the benefit and betterment of the employees of the Bank as a whole. The management has accordingly prayed that the instant reference may be answered in the affirmative.

4. The union in support of its case, has examined two witnesses and proved some documents *viz.* Ext. W-01 to Ext. W-06.

5. The management has not examined any witness; but it has proved two documents viz. Ext. M-01 and Ext. M-02 in support of its case.

6. At the outset it is to be kept in mind that in this case there is nothing on record to show that the majority unions viz. Bangiya Gramin Bank Employees' Association and Bangiya Gramin Bank Employees' Congress, were aggrieved by the said orders of transfer and that the said unions had protested against issuance of the said transfer orders.

7. The union in this case has alleged that without any norms/guidelines/policy mass transfer orders were issued causing harassment to the lady employees, senior employees, diseased employees (Paragraph 5 of the statement of claim). Paragraph 7 of the statement of claim reads: "Transfers had been made with ulterior motive, unfair labour practice & malafide, victimizing, harassing etc. not connected with the business interest of the institution; and such transfers have caused a lot of bad blood, anger, frustration and disgust amongst the members/employees." But on careful scrutiny of the records it appears that the union has failed to produce any document to establish that any of the employee so transferred filed any representation before the management alleging that he/she had been so harassed or discriminated by the said orders of transfer. No document is also forthcoming to ascertain that the management favoured any employee by way of issuing such orders of transfer. On the other hand, the management has stated in the Grounds mentioned in paragraph 3 of the written statement that "The Transfer/Posting made by the Bank in 2008 became beneficial for most of the transferee employees as there was repatriation, taking care of the sick employees, taking care for the ailing dependents of the employees etc." The above contention of the management has not been specifically denied by the union in its rejoinder.

The union has also failed to produce any document to show that any aggrieved employee ever ventilated his grievances in writing before the union and the same was forwarded to the management by the union for favourable consideration.

8. It is well settled that transfer is a condition of service and the same cannot be said to be unjustified, except in case of penal or vindictive transfer. In the instant case the union has failed to establish that the said transfer orders were issued with an ulterior motive to harass some employees of the Bank. The union has also failed to prove that there was any favoritism or partiality in the said order of transfer.

9. From the written statement of the management it appears that after thorough discussion with all the Associations/Unions of the Bank, Transfer/Posting guideline was framed and the same was placed before the Board of Directors of the Bank and as per the advice of the Board of Directors the said transfer orders were issued. It further appears that the Bank also formulated Manpower Deployment Policy based on business parameter, ancillary business, potentially of the branches etc. and transfer/posting orders were made on the basis of the said policy. The written statement of the management further goes to show that "Inter-se seniority list of all categories of staff has been finalized and approved by the Board of Directors of the Bank. This has already been circulated." But it is surprising to note that the above contentions of the management have not been specifically denied by the union in its rejoinder. The witnesses of the union in their oral evidence have also not denied the above statements of the management. On the other hand the witness of the union (WW-01) namely, Shri Buddhadeb Bhattacharjee in his cross-examination has stated that "It is fact that the management Bank has published guidelines/policy regarding transfer and posting." So it appears that this witness has admitted the case of the management and as such there is no reason to disbelieve the contention of the management.

10. It is the allegation of the union that the management issued mass transfer orders without any matching post to protect the wages of the employee. But in support of the said contention the union has failed to produce any document to establish that on account of the said transfer the wages of some of the employees were reduced. No oral evidence mentioning the name of the suffered employees is also forthcoming to substantiate the above contention of the union.

11. Having regard to the above discussion, it appears that the concerned union has failed to establish its case that the management with an ulterior motive to harass the concerned employees illegally and unjustifiedly, issued mass transfer orders without having any norms and guidelines/policies in the matter of transfer/posting.

12. Accordingly the instant reference is answered in the affirmative and the concerned workmen are not entitled to any relief whatsoever.

Kolkata

Dt. 18th August, 2015

JUSTICE DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 8 जुलाई, 2015

का०आ० 1750.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए स्टील अथॉरिटी ऑफ इंडिया का मिश्र धातु इस्पात संयंत्र, दुर्गापुर के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, इस अधिसूचना के जारी होने की तारीख से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:—

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई सामाजिक सुरक्षा अधिकारी या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;
 - (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
 - (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
 - (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
 - (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:—
 - (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा

(ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या

(ग) प्रधान या आसन्न नियोजक की, उसके अधिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

(घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;

(ङ) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।

(6) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं० एस-38014/16/2013-एसएस-I]

अजय मलिक, अवर सचिव

New Delhi, the 8th July, 2015

S.O. 1750.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of Alloy Steel Plant of SAIL, Durgapur from the operation of the said Act. The exemption shall be effective from the date of issue of notification for a period of one year.

2. The above exemption is subject to the following conditions namely:—

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name of designations of the exempted employees;

- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory/ establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of:—
- Verifying the particulars contained in any returned submitted under sub-section (1) of Section 44 for the said period; or
 - Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
 - Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
 - Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:
 - require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
 - at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
 - examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or
 - make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
 - exercise such other powers as may be prescribed.
- (6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/16/2013-SS-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 8 जुलाई, 2015

का०आ० 1751.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा नेशनल फर्टिलाइजर लिमिटेड (नांगल, भटिंडा एवं पानीपत यूनिट) के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, इस अधिसूचना के जारी होने की तारीख से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:—

- पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;

- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई सामाजिक सुरक्षा अधिकारी या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी:
- (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
- (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
- (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
- (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:—
- (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा
- (ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या

- (ग) प्रधान या आसन्न नियोजक की, उसके अधिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या
- (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना; या
- (ङ) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।

(6) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/13/2011-एसएस-I]

अजय मलिक, अवर सचिव

New Delhi, the 8th July, 2015

S.O. 1751.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of National Fertilizers Limited (Nangal, Bhatinda & Panipat Units) from the operation of the said Act. The exemption shall be effective from the date of issue of notification for a period of one year.

2. The above exemption is subject to the following conditions namely:—

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees;
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

(5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of:—

- (i) Verifying the particulars contained in any returned submitted under sub-section (1) of section 44 for the said period; or
- (ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
- (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
- (iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:
 - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
 - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
 - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or
 - (d) make copies of or take extracts from any register, account book or other document maintained in such factory,

establishment, office or other premises,

- (e) exercise such other powers as may be prescribed.

(6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/13/2011-SS-I]
AJAY MALIK, Under Secy.

नई दिल्ली, 19 अगस्त, 2015

का.आ. 1752.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा भारत हैवी प्लेट एण्ड वेसेल्स लिमिटेड, विशाखापट्टनम के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, 26 सितम्बर, 2015 से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:—

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;
 - (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा

(ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या

(iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या

(iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:—

(क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा

(ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या

(ग) प्रधान या आसन्न नियोजक की, उसके अधिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

(घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;

(ङ) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।

(6) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/7/2012-एसएस-I]

अजय मलिक, अवर सचिव

New Delhi, the 19th August, 2015

S.O. 1752.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of Bharat Heavy Plates & Vessels Limited, Visakhapatnam from the operation of the said Act. The exemption shall be effective *w.e.f.* 26.09.2015 for a period of one year.

2. The above exemption is subject to the following conditions namely:—

(1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees';

(2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;

(3) The contributions for the exempted period, if already paid, shall not be refundable;

(4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

(5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of:—

(i) Verifying the particulars contained in any returned submitted under sub-section (1) of section 44 for the said period; or

(ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) Ascertaining whether any of the provisions

of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:

- (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
- (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
- (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or
- (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
- (e) exercise such other powers as may be prescribed.
- (6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/7/2012-SS-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 1 सितम्बर, 2015

का०आ० 1753.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा इस्को स्टील प्लांट ऑफ सेल, बर्नपुर, पश्चिम बंगाल के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, 01-10-2015 से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:—

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के हाते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;
 - (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
 - (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथा अपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
 - (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
 - (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:—
 - (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा

- (ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या
- (ग) प्रधान या आसन्न नियोजक की, उसके अधिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या
- (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;
- (ङ) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।

(6) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं० एस-38014/27/2013-एसएस-I]

अजय मलिक, अवर सचिव

New Delhi, the 1st September, 2015

S.O. 1753.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of IISCO Steel Plant of SAIL, Burnpur (West Bengal) from the operation of the said Act. The exemption shall be effective w.e.f. 1.10.2015 for a period of one year.

2. The above exemption is subject to the following conditions namely:—

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees;
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;

- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of:—
 - (i) Verifying the particulars contained in any returned submitted under sub-section (1) of section 44 for the said period; or
 - (ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
 - (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
 - (iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:
 - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
 - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or

- (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or
 - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
 - (e) exercise such other powers as may be prescribed.
- (6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/27/2013-SS-I]
AJAY MALIK, Under Secy.

नई दिल्ली, 1 सितम्बर, 2015

का०आ० 1754.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा राउरकेला स्टील प्लांट, राउरकेला के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, अधिसूचना जारी होने की तारीख से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:—

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;

- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;

- (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
- (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
- (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
- (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:—

- (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा
- (ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या
- (ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या
- (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;

(ड) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।

(6) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/12/2014-एसएस-I]

अजय मलिक, अवर सचिव

New Delhi the 1st September, 2015

S.O. 1754.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/ establishments of Rourkela Steel Plant, Rourkela from the operation of the said Act. The exemption shall be effective for a period of one year from the date of issue of notification.

2. The above exemption is subject to the following conditions namely:—

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees';
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of:—
 - (i) Verifying the particulars contained in any returned submitted under sub-section (1) of section 44 for the said period; or
 - (ii) Ascertaining whether registers and records were maintained as required by the

Employees' State Insurance (General) Regulations, 1950 for the said period; or

- (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
- (iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:
 - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
 - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
 - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or
 - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
 - (e) exercise such other powers as may be prescribed.
- (6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/12/2014-SS-I]
AJAY MALIK, Under Secy.